

No. 11052

IN THE

United States Circuit Court of Appeals

FOR THE NINTH CIRCUIT

---

SIDNEY M. WILLIAMS,

Appellant.

vs.

CONTINENTAL INSURANCE COMPANY OF  
NEW YORK, a corporation,

Appellee.

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**TRANSCRIPT OF RECORD**

Upon Appeal from the District Court of the United States  
for the Southern District of California,  
Central Division

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FILED

July 3, 1915  
PAUL P. GROVEN,  
CLERK



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italics; and likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible an omission from the text is indicated by printing in italics the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS:

For Appellant:

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Los Angeles 13, Calif.

For Appellee:

HINDMAN & DAVIS

HUNTINGTON P. BLEDSOE

607 South Hill Street  
Los Angeles 14, Calif. [1\*]

In the District Court of the United States  
Southern District of California  
Central Division  
No. 2738-PH

THE CONTINENTAL INSURANCE COMPANY OF  
NEW YORK, a corporation,

Plaintiff,

-vs-

SYDNEY M. WILLIAMS and ELIZABETH J.  
WILLIAMS,

Defendants.

### COMPLAINT

(In Fraud for Money)

Plaintiff complains of defendants and alleges:

#### I.

That plaintiff is now and at all times herein mentioned has been a corporation organized and existing under the laws of the State of New York, and is a citizen and resident of the State of New York.

#### II.

That defendants, and each of them, are now and were at all times herein mentioned citizens and residents of the State of California and inhabitants of the Southern District thereof.

#### III.

That the above entitled cause is a suit of civil nature, wholly between citizens of different states, which can be fully determined between them, and the amount in controversy exceeds, exclusive of interest and costs, the sum or value of \$3,000.00.



## IV.

That plaintiff is now and at all times herein [2] mentioned has been an insurance company, authorized to do and doing business in the State of California as an insurance underwriter of risks of loss or damage from various hazards.

## V.

That on or about the 2nd day of June, 1939. plaintiff, upon the representations and warranties of defendant, Sydney M. Williams, and at his special instance and request, made, executed and delivered to the said Sydney M. Williams its policy of insurance No.IMJ-67001 wherein and whereby it insured the said Sydney M. Williams from the 2nd day of June, 1939, to the 2nd day of June, 1940, for the sum of \$4,300.00 on jewelry and/or furs against all risks of loss or damage except as therein excluded while in all situations as per schedule as follows:

<u>Item Number</u>	<u>Description of Items</u>	<u>Amount of Insurance</u>
1.	One Platinum Diamond Watch with diamond bracelet attachment containing 84 Dias. & 2 Baguettes.....	\$ 350.00
2.	One Platinum Diamond Wedding Ring with 11 Diamonds.....	\$ 50.00
3.	One Diamond friendship ring, large center with 14 smaller round stones set in platinum.....	\$ 300.00
4.	One Diamond & Emerald Bracelet set in platinum with 1 Marquise center & 74 full cut dias. weighing approx. 5 carat.....	\$ 900.00
5.	One Plat. Diam. engagement ring center stone weighing approx. 3	

## VIII.

That on the 19th day of February, 1940, defendants made claim against plaintiff under each of the aforementioned policies of insurance for the payment to them of the amount of loss alleged to have been sustained by them as aforesaid, according to the terms of said policies, and in support of their said claim and demand, presented to plaintiff sworn statements in proof of their loss as claimed under each of said policies, which said statements were each signed and sworn to by each and both of said defendants; that in each of said sworn statements, defendants, and each of them, represented, alleged and swore that the hold-up occurred in the City of Calexico, California, [5] on the 31st day of December, 1939, at about the hour of 10:30 o'clock P. M., which to their best knowledge and belief was caused as follows: On said date, while they were walking on a public sidewalk in said City, an armed bandit demanded that they give him the property listed in both of said sworn statements in proof of loss and efforts toward recovery were without success; that said hold-up was not caused by design or procurement on their part; that no articles were mentioned in said sworn statements or in the annexed schedules but such as were interested in the loss and insured under said policies and belonging to them at the time of said loss; and that no property saved had been in any manner concealed; and that no attempt to deceive the said insurer, this plaintiff, as to the extent of said loss had in any manner been made.

That said representations were made in each and both of the aforesaid sworn statements; that in addition thereto, defendants represented in sworn statement presented in proof of their claim against plaintiff under Policy No. IMJ 67001, that the cash value of the articles lost by the happening aforesaid, as shown by an annexed schedule for which claim was made under said policy, was in the total sum of \$3,950.00, and that defendants' whole loss thereon was in the sum of \$3,950.00, and that defendants claimed therefor under said policy of plaintiff the amount of \$3,950.00. Attached to said sworn statement was a schedule of loss wherein there were enumerated the articles itemized as "1, 3, 4 and 5" in paragraph VII hereof, and the amounts set opposite said items, the amounts set opposite said items in said paragraph above. That in addition thereto, in the sworn statement in proof of loss to plaintiff under policy No. SPF 303653, aforesaid, defendants represented the actual amount of loss or damage to the items for which loss was claimed thereunder, as shown by the annexed schedule, was \$521.00, and said annexed schedule showed the value of the item scheduled as [6] item No. 2 in paragraph VII above as \$300.00, and the value of the item shown as item No. 6 in paragraph VII above as \$125.00, and the value of the item shown as item No. 7 in paragraph VII above as \$96.00, and made claim against plaintiff under said policy for the sum of \$300.00.

## IX.

That each and all of the aforesaid representations, both oral and written, made by defendants to plaintiff were

false and fraudulent and known by defendants to be false when made, and were falsely and fraudulently and wilfully made for the purpose of deceiving plaintiff and of inducing the plaintiff to pay to the defendants the aforesaid sums in that: Defendants, or either of them, suffered *no* by hold-up or robbery or at all in the City of Calexico, California, on the 31st day of December, 1939, or at any other time or at any other place, or at all, and suffered no loss of any kind to the property insured under said policies of insurance, but on the contrary, falsely and with full knowledge of its falsity reported said alleged loss to plaintiff for the purpose of cheating and defrauding plaintiff, when in truth and in fact no robbery or hold-up had occurred at said time or place, or at all.

That the actual cost and cash value of the article itemized as item No. 1 in the schedule contained in paragraph VII hereof was in an amount of not exceeding \$100.00 instead of \$350.00, as represented by defendants; the article itemized as item No. 2 in said schedule was of a cost of and a cash value of \$150.00 instead of \$300.00 as represented by defendants; the article itemized as item No. 3 in said schedule was of a cost of and of a cash value of \$300.00 instead of \$900.00, as represented by defendants; the article itemized as item No. 4 in said schedule was of a cost of and of a cash value of \$500.00 instead of \$1,800.00, as represented by defendants; the article itemized as item No. 5 in said schedule was of a cost of \$250.00 [7] and of a cash value of \$250.00 instead of \$900.00 as represented by said defendants.

That said representations made in said sworn statements in proof of loss were false and untrue and falsely and fraudulently made by defendants with the knowledge of their falsity for the purpose of deceiving and defrauding plaintiff in that there was no robbery of the property referred to in the City of Calexico, California, on the 31st day of December, 1939, or at any other time or place, or at all, and no loss of any kind to defendants of the property described in said policies of insurance, and said report to plaintiff by defendants of said robbery or hold-up was wholly false and was reported solely for the purpose of cheating and defrauding plaintiff and inducing plaintiff to part with the sums of money aforesaid.

That said representations in said sworn statements were further false and untrue in that said alleged hold-up was reported entirely by design and procurement on defendants' part for the purpose of defrauding plaintiff; and were further false in that no articles belonging to defendants, or either of them, as mentioned in said sworn statements, were involved in any loss; and were further false and untrue in that all of the property insured was saved and concealed from plaintiff for the purpose of defrauding plaintiff; and were further false in that the entire transaction from the report of the alleged loss by hold-up or robbery, to the receipt of the aforesaid sums of money by defendants from plaintiff, and each and all of the representations so made, as heretofore alleged, were part of a false and fraudulent scheme to deceive and defraud plaintiff.

## X.

That plaintiff believed the aforesaid false and fraudulent representations of defendants and had no knowledge or information to the contrary, and was induced thereby and by each of said representations, and believing said representations, [8] and acting thereon, and being induced thereby, the plaintiff did, on the 9th day of March 1940, pay to the defendants, through the Anglo-California National Bank of San Francisco, California, the respective amounts of \$3,950.00 and \$300.00, all to its damage in the sum of \$4,250.00.

Wherefore, plaintiff prays judgment against defendants, and each of them, in the sum of \$4,250.00, with interest thereon from March 9, 1940, and for its costs and disbursements herein.

E. EUGENE DAVIS

W. W. HINDMAN

Attorneys for Plaintiff, whose address is:  
607 South Hill Street, Los Angeles,  
California.

[Endorsed]: Filed Feb. 4, 1943. [9]

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[Title of District Court and Cause.]

ANSWER OF SYDNEY M. WILLIAMS

Comes now defendant, Sydney M. Williams, and answering plaintiff's complaint, admits, denies and alleges:

I.

As a first affirmative defense to said complaint, this defendant alleges that said complaint does not state facts sufficient to constitute a cause of action.



Further answering said complaint and by way of a second defense to said complaint, this defendant admits, denies and alleges:

I.

Denies each and every, all and singular, the allegations contained in Paragraphs IX and X of said complaint.

Further answering said complaint and by way of a third affirmative defense, this defendant alleges: [10]

I.

That a robbery occurred on or about the 31st day of December, 1939, in the City of Calexico, State of California, and that at said time and place he was relieved of jewelry and other personal property in excess of the value of Four Thousand Two Hundred Fifty Dollars (\$4250.00); that said property was covered by insurance with the plaintiff company; that he thereafter reported said loss to the plaintiff company in accordance with the terms and conditions of the insurance policy; that all the representations made by this answering defendant were true to the best of his knowledge and belief; that thereafter the said plaintiff company caused an investigation to be made and, after being fully advised in the premises, paid to this answering defendant the sum of Four Thousand Two Hundred Fifty Dollars (\$4250.00).

Wherefore, defendant prays that plaintiff take nothing, that he recover his costs herein expended and for such other and further relief as to the Court may be deemed proper.

GEORGE PENNEY

Attorney for Defendant Sydney M. Williams. [11]

[Verified.]

[Endorsed]: Filed May 5, 1943. [12]

[Title of District Court and Cause.]

ANSWER OF ELIZABETH J. WILLIAMS

Comes now the defendant, Elizabeth J. Williams, and in answer to plaintiff's complaint on file herein, admits, denies and *alleges*:

I.

Answering paragraph IX of plaintiff's complaint on file herein, this answering defendant admits the allegations contained therein, but in this connection this answering defendant *alleges* that she did not receive any of the proceeds received from plaintiff by reason of the representations made by the defendants as set forth in plaintiff's complaint.

II.

Answering paragraph X of plaintiff's complaint herein, [13] this answering defendant admits the allegations therein contained, but denies that she received the sum of \$4,250.00, or any portion thereof, from monies paid by plaintiff to defendants in the manner set forth in said paragraph X.

Wherefore, this answering defendant prays that plaintiff take nothing by reason of its complaint on file herein against this answering defendant, and for costs of suit incurred herein, and for such other and further relief as to the Court may seem meet and proper.

CHARLES B. TAYLOR

Attorney for Defendant, Elizabeth J. Williams. [14]

[Verified.]

[Endorsed]: Filed Sep. 14, 1943. [15]



[Title of District Court and Cause.]

## OBJECTIONS TO FINDINGS OF FACT AND CONCLUSIONS OF LAW AND JUDGMENT

Comes now the defendant Sydney M. Williams and objects to the proposed findings of fact and conclusions of law and the proposed judgment in the above-entitled case on the following grounds:

### I.

That said findings are defective in that they fail to find on a material issue raised by the pleadings and covered by the evidence; to wit, the actual value of those certain articles set forth in the proof of loss and specifically mentioned in Paragraph IX of plaintiff's complaint.

### II.

That said findings are defective in that they fail to find on a material issue raised by said pleadings; to wit, whether or not this objecting defendant falsely and fraudulently represented the value of said articles. [19]

### III.

That the judgment is defective in that the plaintiff had possession of certain articles of jewelry alleged to have been set forth in a proof of loss, which said loss the plaintiff paid. That it now appears that two articles of said jewelry were in the possession of the plaintiff prior to the time of commencing action; that no offer of return has been made to the defendant Sydney M. Williams; the plaintiff has exercised ownership of the same, has made no demand on said defendant for the return of any

moneys paid for said loss; and that said judgment now includes the values of the articles previously in possession of said plaintiff and no credit has been given to this defendant therefor.

GEORGE PENNEY

Attorney for Defendant Sydney M. Williams

[Endorsed]: Filed Dec. 29, 1944. [20]

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[Title of District Court and Cause.]

FINDINGS OF FACT AND CONCLUSIONS  
OF LAW

This cause came on regularly for trial on the 12th day of December, 1944, before the Honorable Peirson M. Hall, Judge of the above-entitled court, sitting without a jury, a jury having been expressly waived in writing; and plaintiff appeared by its attorneys, E. Eugene Davis and Huntington P. Bledsoe, and defendant Sydney M. Williams appeared in person and by his attorney, George Penney, and defendant Elizabeth J. Williams appeared in person and by her attorney, Charles B. Taylor; and evidence, both oral and documentary, was introduced on behalf of each of the respective parties hereto, and the Court heard the same and the cause was submitted to the Court for decision, and all and singular the law and the facts having been by the Court fully considered and understood, the Court does now, on motion of plaintiff, make the following: [21]

Findings of Fact

I.

That plaintiff is now and at all times herein mentioned has been a corporation organized and existing under the laws of the State of New York, and is a citizen and resident of the State of New York.

II.

That defendants, and each of them, are now and were at all times herein mentioned citizens and residents of the State of California and inhabitants of the Southern District thereof.

III.

That the above-entitled cause is a suit of civil nature, wholly between citizens of different states, which can be fully determined between them, and the amount in controversy exceeds, exclusive of interest and costs, the sum or value of \$3,000.00.

IV.

That plaintiff is now and at all times herein mentioned has been an insurance company, authorized to do and doing business in the State of California as an insurance underwriter of risks of loss or damage from various hazards.

V.

That on or about the 2d day of June, 1939, plaintiff, upon the representations and warranties of defendant, Sydney M. Williams, and at his special instance and request, made, executed, and delivered to the said Sydney M. Williams its policy of insurance No. IMJ-67001 wherein and whereby it insured the said Sydney M. Williams

from the 2d day of June, 1939, to the 2d day of June, 1940, for the sum of \$4,300.00 on jewelry and/or furs against all risks of loss or damage except as therein excluded while in all situations as per schedule as follows: [22]

<u>Item Number</u>	<u>Description of Items</u>	<u>Amount of Insurance</u>
1.	One Platinum Diamond Watch with diamond bracelet attachment containing 84 Dias. & 2 Baguettes.....	\$ 350.00
2.	One Platinum Diamond Wedding Ring with 11 Diamonds.....	50.00
3.	One Diamond friendship ring, large center with 14 smaller round stones set in platinum.....	300.00
4.	One Diamond & Emerald Bracelet set in platinum with 1 Marquise center & 74 full-cut dias. weighing approx. 5 carat.....	900.00
5.	One Plat. Diam. engagement ring center stone weighing approx. 3 carat also containing 8 baguettes & 22 round diamonds.....	1,800.00
6.	One gents Diam. Ring measuring scant 2 carat center.....	900.00
Total.....		\$4,300.00

That on August 15, 1939, for valuable consideration, said policy was amended so as to eliminate therefrom Item No. 2 above, "One Platinum Diamond Wedding Ring" and Item No. 3 above, "One Diamond friendship ring", and to insure Sydney M. Williams and Elizabeth J. Williams in place of Sydney M. Williams.

## VI.

That on the 1st day of September, 1939, plaintiff, for a valuable consideration, and upon the representations and warranties of defendants, insured defendants in an amount not exceeding \$8,000.00, on unscheduled personal property against all risks of loss or damage to the insureds' property except as therein provided by its policy of insurance No. SPF 303653, which policy provided, however, that the company, this plaintiff, should not be liable thereunder for more than \$250.00 on account of any loss of jewelry, watches and furs, and further provided that the company would not be liable for more than \$50.00 [23] on account of any one loss of money. That each and both of said policies were in full force and effect at all times herein mentioned.

## VII.

That on or about the 2d day of January, 1940, defendants represented to plaintiff that on the 31st day of December, 1939, on the public streets of the City of Calexico, California, defendants suffered a loss by hold-up or robbery in that at said time and place they were deprived of the property on which they were insured in the above described policies by two armed bandits, who feloniously, and against their will, took said property from their persons by means of armed threat.

That defendants further represented to plaintiff that the articles of which they were so deprived were the articles described in said policies and the actual wholesale cost and cash value of said articles were as follows, to-wit:

1. One platinum, diamond watch with diamond bracelet attachment containing 84 diamonds and 2 Baguettes, of a cost of and a cash value of .....\$ 350.00

2. One diamond friendship ring, large center with 14 small round stones set in platinum, of a cost of and cash value of.....\$ 300.00
3. One diamond and emerald bracelet set in platinum with one marquise center and 74 full-cut diamonds, weighing approximately 5 carats of a cost of and cash value of .....\$ 900.00
4. One platinum, diamond engagement ring, center stone weighing approximately 3 carats also containing 8 baguettes and 22 round diamonds of a cost of and a cash value of .....\$1,800.00
5. One gent's diamond ring measuring scant 2 ct. center..... 900.00 [24]
6. One wrist watch, Gruen Curvex, yellow gold case, of a cost of and a cash value of.....\$ 125.00
7. Cash money ..... 96.00

## VIII.

That on the 19th day of February, 1940, defendants made claim against plaintiff under each of the aforementioned policies of insurance for the payment to them of the amount of loss alleged to have been sustained by them as aforesaid, according to the terms of said policies, and in support of their said claim and demand, presented to plaintiff sworn statements in proof of their loss as claimed under each of said policies, which said statements were each signed and sworn to by each and both



of said defendants; that in each of said sworn statements, defendants, and each of them, represented, alleged and swore that the hold-up occurred in the City of Calexico, California, on the 31st day of December, 1939, at about the hour of 10:30 o'clock P. M., which to their best knowledge and belief was caused as follows: On said date, while they were walking on a public sidewalk in said City, an armed bandit demanded that they give him the property listed in both of said sworn statements in proof of loss and efforts toward recovery were without success; that said hold-up was not caused by design or procurement on their part; that no articles were mentioned in said sworn statements or in the annexed schedules but such as were interested in the loss and insured under said policies and belonging to them at the time of said loss; and that no property saved had been in any manner concealed; and that no attempt to deceive the said insurer, this plaintiff, as to the extent of said loss had in any manner been made.

That said representations were made in each and both of the aforesaid sworn statements; that in addition thereto, defendants represented in sworn statement presented in proof of their claim against plaintiff under Policy No. IMJ 67001, that the cash value of the [25] articles lost by the happening aforesaid, as shown by an annexed schedule for which claim was made under said policy, was in the total sum of \$3,950.00, and that defendants' whole loss thereon was in the sum of \$3,950.00, and that defendants claimed therefor under said policy of plaintiff the amount of \$3,950.00. Attached to said sworn statement was a schedule of loss wherein there were enumerated the articles itemized as "1, 3, 4, and 5" in paragraph VII hereof, and the amounts set opposite said items in said paragraph above. That in addition thereto, in the

sworn statement in proof of loss to plaintiff under policy No. SPF 303653, aforesaid, defendants represented the actual amount of loss or damage to the items for which loss was claimed thereunder, as shown by the annexed schedule, was \$521.00, and said annexed schedule showed the value of the item scheduled as item No. 2 in paragraph VII above as \$300.00, and the value of the item shown as item No. 6 in paragraph VII above as \$125.00, and the value of the item shown as item No. 7 in paragraph VII above as \$96.00, and made claim against plaintiff under said policy for the sum of \$300.00.

### IX.

That each and all of the aforesaid representations, both oral and written, made by defendants to plaintiff were false and fraudulent and known by defendants to be false when made, and were falsely and fraudulently and wilfully made for the purpose of deceiving plaintiff and of inducing the plaintiff to pay to the defendants the aforesaid sums in that: Defendants, or either of them, suffered no loss by hold-up or robbery or loss at all in the City of Calexico, California, on the 31st day of December, 1939, or at any other time or at any other place, or at all, and suffered no loss of any kind to the property insured under said policies of insurance, but on the contrary, falsely and with full knowledge of its falsity reported said alleged loss to plaintiff for the purpose of cheating and defrauding plaintiff, when in truth and in fact no robbery or hold-up or other loss had occurred to the property insured at said time or place, or [26] at all.



That said representations made in said sworn statements in proof of loss were false and untrue and falsely and fraudulently made by defendants with the knowledge of their falsity for the purpose of deceiving and defrauding plaintiff in that there was no robbery of the property referred to in the City of Calexico, California, on the 31st day of December, 1939, or at any other time or place, or at all, and no loss of any kind to defendants of the property described in said policies of insurance, and said report to plaintiff by defendants of said robbery or hold-up was wholly false and was reported solely for the purpose of cheating and defrauding plaintiff and inducing plaintiff to part with the sums of money aforesaid.

That said representations in said sworn statements were further false and untrue in that said alleged hold-up was reported entirely by design and procurement on defendants' part for the purpose of defrauding plaintiff; and were further false in that no articles belonging to defendants, or either of them, as mentioned in said sworn statements, were involved in any loss; and were further false and untrue in that all of the property insured was saved and concealed from plaintiff for the purpose of defrauding plaintiff; and were further false in that the entire transaction from the report of the alleged loss by hold-up or robbery, to the receipt of the aforesaid sums of money by defendants from plaintiff, and each and all of the representations so made, as heretofore alleged, were part of a false and fraudulent scheme to deceive and defraud plaintiff.

## X.

That plaintiff believed the aforesaid false and fraudulent representations of defendants and had no knowledge

or information to the contrary, and was induced thereby and by each of said representations, and believing said representations, and acting thereon, and being induced thereby, the plaintiff did, on the 9th day of March, 1940, pay to the defendants, through the Anglo-California National Bank of [27] San Francisco, California, the respective amounts of \$3,950.00 and \$300.00, all to its damage in the sum of \$4,250.00.

Wherefore, applying the existing law to the foregoing Findings of Fact, the Court makes the following:

#### Conclusions of Law

That plaintiff is entitled to judgment against defendants, and each of them, in the sum of Four Thousand, Two Hundred Fifty and no/100 Dollars (\$4,250.00), with interest thereon from March 10, 1940, and for its costs and disbursements herein.

Done in open court this 2nd day of January, 1945.

PEIRSON M. HALL

Judge of the District Court.

Approved as to form under Rule No. 7.

-----  
Attorney for Defendant Sydney M. Williams

CHARLES B. TAYLOR

Attorney for Defendant Elizabeth J. Williams. [28]

Received copy of the within Findings this 23 day of December, 1944. George Penney, Attorney for Sydney Williams.

[Endorsed]: Filed Jan. 2, 1945. [29]

In the District Court of the United States

Southern District of California

Central Division

No. 2738-PH

THE CONTINENTAL INSURANCE COMPANY OF  
NEW YORK, a corporation,

Plaintiff,

vs.

SYDNEY M. WILLIAMS and ELIZABETH J.  
WILLIAMS,

Defendants.

### JUDGMENT

This cause came on regularly for trial on the 12th day of December, 1944, before the Honorable Peirson M. Hall, Judge of the above-entitled court, sitting without a jury, a jury having been expressly waived in writing; and plaintiff appeared by its attorneys, E. Eugene Davis and Huntington P. Bledsoe, and defendant Sydney M. Williams appeared in person and by his attorney, George Penney, and defendant Elizabeth J. Williams appeared in person and by her attorney, Charles B. Taylor; and evidence, both oral and documentary, was introduced on behalf of each of the respective parties hereto, and the Court heard the same and the cause was submitted to the Court for decision; and the Court having made its Findings of Fact and Conclusions of Law does now, on motion of plaintiff, [30]

Order, Adjudge, and Decree that judgment be entered herein in favor of plaintiff and against defendants, and each of them, in the sum of Four Thousand, Two Hundred Fifty and no/100 Dollars (\$4,250.00), with interest thereon from March 9, 1940, and for its costs and disbursements herein to be taxed by the Clerk at One Hundred Seventeen and 84/100 Dollars (\$117.84).

Done in open court this 2nd day of January, 1945.

PEIRSON M. HALL

Judge of the District Court.

Approved as to form under Rule 7.

-----  
Attorney for Defendant Sydney M. Williams

CHARLES B. TAYLOR

Attorney for Defendant Elizabeth J. Williams.

Received copy of the within Judgment this 23 day of December, 1944. George Penney, Attorney for Sydney Williams.

Judgment entered Jan. 2, 1945. Docketed Jan. 2, 1945. C. O. Book 29, page 777. Edmund L. Smith, Clerk; by J. M. Horn, Deputy. [31]

[Endorsed]: Filed Jan. 2, 1945. [32]

[Title of District Court and Cause.]

NOTICE BY CLERK OF ENTRY OF JUDGMENT

Hindman & Davis  
Attorneys at Law  
607 South Hill St.  
Los Angeles, 14, Calif.

George Penney, Esq.  
939 Rowan Bldg.  
458 South Spring St.  
Los Angeles, 13, Calif.

Dear Sir:

In re: 2738-PH-Civil

The Continental Insurance Company of N. Y.

vs.

Sydney M. Williams, et al.

You are hereby notified that Judgment has been entered this day in the above-entitled case, in Civil Order Book No. 29, page 777.

Dated: Los Angeles, California, January 2, 1945.

EDMUND L. SMITH,  
Clerk.

By J. M. Horn,  
Deputy Clerk. [33]

[Title of District Court and Cause.]

NOTICE OF HEARING ON MOTION FOR NEW TRIAL, MOTION TO AMEND FINDINGS OF FACT AND CONCLUSIONS OF LAW AND DIRECT THE ENTRY OF A NEW JUDGMENT, AND MOTION TO CORRECT FINDINGS AND TO MAKE THE SAME MORE DEFINITE AND CERTAIN

To the Continental Insurance Company of New York, a corporation, plaintiff in the above-entitled action, and to Messrs. Hindman & Davis and Huntington P. Bledsoe, its attorneys:

You. and Each of You, Will Please Take Notice that the defendant Sydney M. Williams in the above-entitled action is filing concurrently herewith his written motion for new trial, motion to amend findings of fact and conclusions of law and direct the entry of a new judgment, and motion to correct findings and to make the same more definite and certain, a copy of which is attached hereto, marked "Exhibit A" and incorporated herein by reference as fully as if set forth herein at length.

You Will Further Take Notice that said defendant will present said motions for hearing on the 29th day of January 1945 at the hour of ten o'clock a. m. of said day, or as soon thereafter as counsel may be heard, in the above-entitled court, in the room of Judge [34] Peirson M. Hall, Room 4. second floor of the Federal Building, Los Angeles, California.

Dated, January 11. 1945.

GEORGE PENNEY

Attorney for Defendant Sydney M. Williams [35]

[Note: Exhibit A is a copy of Motion for New Trial, etc., found at page 37 of the Certified Record so is not repeated at this point.]

[Endorsed]: Filed Jan. 11, 1945. [36]

[Title of District Court and Cause.]

MOTION FOR NEW TRIAL, MOTION TO AMEND  
FINDINGS OF FACT AND CONCLUSIONS OF  
LAW AND DIRECT THE ENTRY OF A NEW  
JUDGMENT, AND MOTION TO CORRECT  
FINDINGS AND TO MAKE THE SAME MORE  
DEFINITE AND CERTAIN

Comes now the defendant Sydney M. Williams and  
files this his written motions as follows, to wit:

His Motion for New Trial in the Above-Entitled Mat-  
ter: for the following reasons:

1. That there is newly-discovered evidence which this  
defendant could not, in the exercise of reasonable dili-  
gence, have discovered prior to the trial of this action.

2. That errors of law appear upon the face of the  
record.

3. That errors of law were committed in the admis-  
sion and exclusion of evidence.

4. That it appears from the pleadings and the evi-  
dence in this case that an erroneous judgment has been  
rendered.

5. That it appears from the pleadings and the evi-  
dence that justice has not been attained by the judg-  
ment rendered herein.

6. That the findings of fact are not supported by the  
evidence. [37]

7. That the judgment is not supported by the evi-  
dence.

8. That the findings of fact are insufficient to sup-  
port the conclusions of law.

9. That the findings of fact and conclusions of law  
are insufficient to support the judgment herein.



10. That errors occurred in the course of the trial prejudicial to this defendant.

11. That there was genuine and excusable surprise and mistake in the course of the trial, and with respect to the evidence adduced therein, adversely affecting this defendant's cause, which mistake and surprise were contributed to by the conduct of plaintiff's attorneys.

His Motion to Amend the Findings of Fact and Conclusions of Law and Direct the Entry of a New Judgment in the Above-Entitled Matter, upon the following grounds, to wit:

1. That it appears from the pleadings and the evidence in this case that the court should have found that the representations of this defendant with respect to the alleged holdup or robbery were true and correct.

2. That it appears from the pleadings and the evidence in this case that the court should have found that the actual amount of the loss or damage sustained by this defendant as claimed in his schedule of loss was true and correct.

3. That it appears from the pleadings and the evidence in this case that certain articles of jewelry involved in the holdup and introduced in evidence as the articles involved therein were not the articles listed in or covered by the policy issued by the plaintiff, nor the articles listed in this defendant's proof of loss.

4. That the judgment is defective in that the plaintiff had possession of certain articles of jewelry alleged to have been set forth in a proof of loss, which said loss the plaintiff paid. That [38] it now appears that two articles of said jewelry were in the possession of the plaintiff prior to the time of commencing action; that no offer of return has been made to the defendant Sydney



M. Williams; the plaintiff has exercised ownership of the same, has made no demand on said defendant for the return of any moneys paid for said loss; and that said judgment now includes the values of the articles previously in possession of said plaintiff and no credit has been given to this defendant therefor.

5. That the judgment in the above-entitled matter should have been in favor of this defendant.

His Motion to Correct the Findings and to Make the Same More Definite and Certain, upon the following grounds, to wit:

1. That said findings are defective in that they fail to find on a material issue raised by the pleadings and covered by the evidence; to wit, the actual value of those certain articles set forth in the proof of loss and specifically mentioned in Paragraph IX of plaintiff's complaint.

2. That said findings are defective in that they fail to find on a material issue raised by said pleadings; to wit, whether or not this defendant falsely and fraudulently represented the value of said articles.

3. Said motions, and each of them, will be based upon the files, records, documents, evidence, including the reporter's transcript, and exhibits received in evidence, and memoranda of counsel heretofore filed in the above-entitled action, and upon the affidavits of Emanuel M. Lippett, Irving H. Laykin, David Riskin, Rosalind Goodrich Bates, and George Penney, filed concurrently herewith.

Dated, this 11th day of January, 1945.

GEORGE PENNEY

Attorney for Defendant Sydney M. Williams

[Endorsed]: Filed Jan. 11, 1945. [39]

[Title of District Court and Cause.]

AFFIDAVIT OF GEORGE PENNEY

State of California

County of Los Angeles—ss.

George Penney, being first duly sworn, on his oath deposes and says:

That he is the attorney of record for the defendant Sydney M. Williams. That after service of summons and complaint upon the defendant Sydney M. Williams your affiant was retained as counsel, and immediately communicated with E. Eugene Davis, Esq. of the firm of Hindman & Davis and made arrangements to have the deposition of Sydney M. Williams taken at their office. This was accordingly done on the 28th day of April 1943. At that time service of summons and complaint had not been had on Elizabeth J. Williams, codefendant. That Elizabeth J. Williams filed her answer in October of 1943 and was represented by Charles B. Taylor, Esq. That your affiant communicated with said Charles B. Taylor and requested the opportunity [40] of taking the deposition of said Elizabeth J. Williams, as your affiant did not know the whereabouts of the said Elizabeth J. Williams. Mr. Taylor advised your affiant that he would communicate with his client and assured this affiant that the deposition could be taken sometime during the following month, as the case had been set for trial on December 30, 1943.

Shortly thereafter the case went off calendar, and nothing further was done in connection with obtaining said deposition. In the spring of 1944, your affiant again communicated with the said Charles B. Taylor and asked permission to take the deposition of said Elizabeth J.

Williams. At this time the said Charles B. Taylor advised your affiant that Elizabeth J. Williams was not in the city, but that he would communicate with her and make the proper arrangements for a deposition. Your affiant waited until sometime during the summer of 1944 and again communicated with said Charles B. Taylor and received the same reply; i. e., that he would have his client ready for a deposition and would let affiant know the time that she would be in the city.

In September, your affiant again communicated with the said Charles B. Taylor and again was advised that the deposition would be taken. The case was then set for trial on November 14, 1944, but was continued at the request of this affiant to December 12, 1944. Affiant communicated with the said Taylor the first week in November and requested again that he permit the deposition of the said Elizabeth J. Williams to be taken. On or about the 27th day of November 1944, affiant again communicated with the said Taylor and advised him that it would be necessary to take the deposition prior to the time of trial. Taylor advised this affiant that he would wire Elizabeth J. Williams and have her available for the deposition and asked what dates this affiant could take said deposition. Affiant advised him that it could be taken either Monday, December 4, December 6, December 7, or December 8. [41]

On the afternoon of December 8, the said Taylor called your affiant and stated that Elizabeth J. Williams was in his office. Your affiant requested the opportunity of taking her deposition at that time, but after communicating with Messrs. Hindman & Davis affiant ascertained that it was inconvenient for a representative of the latter firm to be present then, and the only date which was convenient for all parties concerned was Sunday,

December 10. The deposition was accordingly taken at that time, and the transcript of her testimony was transcribed and delivered to this affiant on the afternoon of December 11, the day preceding commencement of trial. That your affiant had no opportunity of checking the story of Elizabeth J. Williams until the time of trial, which proved insufficient to obtain the necessary evidence to overcome her testimony.

Affiant discussed with his client the possibility of requesting a continuance, but the said Sydney M. Williams stated that the filing of this action had hurt his credit as well as injured his professional standing and that he felt he should proceed to trial in order to clear his name.

Your affiant believes that the said Charles B. Taylor acted in good faith throughout, and that there is no fault attached to him in the failure to have his client available for the deposition.

This affiant never had the opportunity of examining the two pieces of jewelry which were offered in evidence by the plaintiff in the action until the time they were presented in court, and it now appears from the affidavits filed herein that these two exhibits were not the subject matter of the insurance as testified to by the said Elizabeth J. Williams, nor are they items referred to in the complaint of the plaintiff.

After the rendition of judgment, your affiant attempted to ascertain the name of the assistant of S. W. Thompson, the attorney for Elizabeth J. Williams in the divorce action filed by her against [42] Sydney M. Williams, to which reference was made in the course of this trial. S. W. (Pinky) Thompson is now deceased, having passed away approximately two years ago. Affiant was informed that the assistant's name was Friedman and that

he had been associated after Thompson's death with Louis Greenbaum, an attorney at law with offices in the Garfield Building in Los Angeles. Your affiant communicated with Mr. Greenbaum and he advised your affiant that the said Friedman was in the service of the United States armed forces. In that conversation, it developed that Mr. Greenbaum had been told, sometime in 1941, certain facts concerning this robbery in Calexico by Elizabeth J. Williams. Affiant outlined to Mr. Greenbaum the substance of the story told by Elizabeth J. Williams on the witness stand, and asked him whether he felt he could give an affidavit outlining the story which Mrs. Williams had told him. He refused to give an affidavit and refused to give the substance of her story to him, stating that he would be willing to do so if the court should determine that the information he so received was not confidential. He further stated in substance that he believed that his testimony would be material to a correct determination of the issues before this court. Greenbaum then stated to this affiant that he had referred the said Elizabeth J. Williams to Herbert Ganahl, an attorney at law with offices in the Merritt Building in Los Angeles.

Your affiant communicated with Mr. Ganahl and outlined to him the substance of the statements made by Elizabeth J. Williams under oath during the trial of the above-entitled action. Mr. Ganahl stated to your affiant that he could not give an affidavit until this court had determined whether such information which he had received from Elizabeth J. Williams in 1941 was confidential and whether, if confidential, the said Elizabeth J. Williams had waived the privilege of confidence. He stated that if he could be permitted to testify he would be willing to do so, and further assured this affiant that

his testimony would be of such a nature that it would [43] materially assist the court in a proper determination of the issues of this case.

Your affiant then communicated with Harry J. McClean, president of the Bar Association of Los Angeles, to ascertain what the proper procedure would be to obtain the testimony of these two attorneys at law, as your affiant considered it a question of ethics. The said Harry J. McClean suggested that the matter be called to the court's attention by way of an affidavit in this form. Your affiant verily believes that subpoenas should be issued for the said Louis Greenbaum and the said Herbert Ganahl to appear in court for the purpose of receiving their testimony.

GEORGE PENNEY

Subscribed and Sworn to before me this 11th day of January 1945.

(Seal)

NINA L. SANDERS

Notary Public in and for said County and State

[Endorsed]: Filed Jan. 11, 1945. [44]

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[Title of District Court and Cause.]

AFFIDAVIT OF ROSALIND GOODRICH BATES

State of California

County of Los Angeles—ss.

Rosalind Goodrich Bates, being first duly sworn, on oath deposes and says:

That in 1940 she was a duly qualified Commissioner in domestic relations court of the County of Los Angeles



assigned to the court of the Honorable Ben Lindsey. That she recalls a hearing in said court between Sydney M. Williams and his wife Elizabeth J. Williams and the circumstances surrounding the same, as she had known the said Sydney M. Williams for many years prior thereto.

That at the time of the hearing in her department in October 1940 she is certain that both Elizabeth J. Williams and Sydney M. Williams were sworn before they testified. That the said Sydney M. Williams was making a claim for certain jewelry which consisted of a man's diamond ring and a diamond Elk's pin which the said Elizabeth [45] J. Williams admitted she had in her possession. That said Sydney M. Williams made no claim nor was any testimony offered by him or by Elizabeth J. Williams concerning any unmounted diamonds.

Affiant further states that she never requested Elizabeth J. Williams to return a two-carat or a three-carat unmounted diamond. Affiant further states that there was no mention of any robbery at the time of said hearing; that the order which your affiant made at the time should have particularly described said man's diamond ring and an Elk's pin, as those were the only two pieces of jewelry which were mentioned at the time of said hearing.

ROSALIND GOODRICH BATES

Subscribed and Sworn to before me this 10th day of January 1945.

(Seal)

DELLA G. MARGAINE

Notary Public in and for said County and State

[Endorsed]: Filed Jan. 11, 1945. [46]



[Title of District Court and Cause.]

AFFIDAVIT OF DAVID RISKIN

State of California

County of Los Angeles—ss.

David Riskin, being first duly sworn, on his oath deposes and says:

That on or about the 6th day of February 1939 he sold to Sydney M. Williams for the sum of \$500 a lady's diamond ring with a center diamond weighing between 1 carat and 1 and 10/100 carats, set with smaller diamonds. That said ring had no initials inscribed on the inside of the band.

That on or about the 5th day of January 1945 this affiant examined the lady's ring which is marked in evidence as Exhibit 8. This ring definitely is not the ring sold by this affiant to said Sydney M. Williams, as said ring has a center stone weighing approximately one-half carat. Your affiant, by the use of a jeweler's glass, has discovered two engraved initials which appear to be AT; [47] these initials are not a manufacturer's trademark.

Affiant further states that the ring which he sold to Sydney M. Williams was reasonably worth the sum of \$500 in February 1939; that the ring offered in evidence in the above-entitled case and marked "Exhibit 8" would have been reasonably worth in February 1939 between \$125 and \$150.

DAVID RISKIN

Subscribed and Sworn to before me this 8th day of January 1945.

(Seal)

NINA L. SANDERS

Notary Public in and for the County of Los Angeles,  
State of California

[Endorsed]: Filed Jan. 11, 1945. [48]

[Title of District Court and Cause.]

AFFIDAVIT OF EMANUEL M. LIPPETT

State of California

County of Los Angeles—ss.

Emanuel M. Lippett, being first duly sworn, on his oath deposes and says:

That he has examined the lady's wrist watch and the lady's ring, both of which articles were introduced in evidence in the above-entitled action. That neither the watch nor the ring is an article which your affiant appraised for insurance by the Continental Insurance Company at the time said company placed insurance on the jewelry of said Sydney M. Williams.

EMANUEL M. LIPPETT

Subscribed and Sworn to before me this 10th day of January 1945.

(Seal)

BEATRICE NOYES

Notary Public in and for said County and State

[Endorsed]: Filed Jan. 11, 1945. [49]

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[Title of District Court and Cause.]

AFFIDAVIT OF IRVING H. LAYKIN

State of California

County of Los Angeles—ss.

Irving H. Laykin, being first duly sworn, on his oath deposes and says:

That he knew Max Rosenthal in his lifetime and had had numerous business dealings with him. That at various times he had on consignment from the said Max Rosenthal many thousands of dollars worth of jewelry consisting largely of mounted diamonds. That in 1936 your affiant appraised two pieces of jewelry for Sydney M. Williams at the request of Max Rosenthal and Sydney M. Williams, as the said Max Rosenthal advised

your affiant that he was paying an obligation to the said Sydney M. Williams and also obtaining certain cash for the sale of two pieces of jewelry consisting of (1) one lady's diamond ring with a large center stone of approximately 3 carats surrounded by baguettes and smaller diamonds which your affiant appraised at in [50] excess of \$2000 retail; and (2) one platinum diamond watch with diamond bracelet attachment, which your affiant appraised at in excess of \$500 retail, his best recollection being that it was appraised at \$750. Your affiant knows that these two pieces of jewelry were subsequently sold to said Sydney M. Williams.

Your affiant did, on or about the 28th day of December 1944, examine a wrist watch at the United States Clerk's office which your affiant was informed had been offered in evidence in the above-entitled case. That your affiant is certain that the watch offered in evidence is not the watch which said Max Rosenthal sold to said Sydney M. Williams. Your affiant further states that he never would have appraised said watch in 1936 for \$750, as in his opinion said watch would have been worth in 1936 only \$125 retail.

Affiant further states that in 1937 he sold to said Sydney M. Williams a small Welson watch with a cloth band for the sum of \$55; that your affiant believes that the watch offered in evidence is either the watch sold by your affiant to said Sydney M. Williams or an identical watch to the one so sold.

IRVING H. LAYKIN

Subscribed and Sworn to before me this 8 day of January 1945.

(Seal)

EDWIN A. ISAACSON

Notary Public in and for said County and State  
My Commission Expires Sept. 13, 1945

[Endorsed]: Filed Jan. 11, 1945. [51]

[Title of District Court and Cause.]

AFFIDAVIT OF HUNTINGTON P. BLEDSOE IN  
OPPOSITION TO MOTION FOR NEW TRIAL

State of California

County of Los Angeles—ss.

Huntington P. Bledsoe, being first duly sworn, deposes and says:

(a) Regarding Affidavit of George Penney:

That affiant has no knowledge, information, or belief concerning the allegations in the affidavit of George Penney regarding his referred to attempts to take the deposition of the defendant Elizabeth J. Williams, or whether said George Penney obtained a subpoena and attempted to serve the said defendant Elizabeth J. Williams; that affiant is informed and believes, and therefore states, that the said defendant Elizabeth J. Williams was present within the county of Los Angeles and available for a deposition for approximately nine or ten months after the filing of the above-entitled action, and that had the said George Penney so desired he could have taken the deposition of said Elizabeth J. [52] Williams during said period either by stipulation or by order of court;

That your affiant was present at the office of Charles B. Taylor on the morning of December 10, 1944, when the deposition of the defendant Elizabeth J. Williams was taken by the said George Penney; that thereafter your affiant had no difficulty in checking the testimony of the said Elizabeth J. Williams as given in said deposition, but thereafter, and prior to the trial herein, your affiant, without difficulty, spoke to or interviewed the witnesses Emanuel M. Lippett, Irving H. Laykin, and David Riskin, whose affidavits are attached to the defendant Sydney M. Williams' Notice of Motion for New Trial

herein; that had the said George Penney so desired, he likewise could have spoke to or interviewed said persons, and thereby would have had the "opportunity of checking the story of Elizabeth J. Williams" claimed denied to him in his said affidavit;

That in regard to the matter contained in the affidavit of the said George Penney, commencing on line 30, page 3, and continuing to line 22, page 4, your affiant had no difficulty in ascertaining, prior to the date of the trial and subsequent to the taking of the said deposition of the said Elizabeth J. Williams, that the said assistant of S. W. (Pinky) Thompson, referred to in said affidavit, is now in the armed forces; that such fact is also disclosed in the Directory of Attorneys of Los Angeles County, published by Parker & Company; that your affiant also spoke on the telephone to a man purporting to be Louis Greenbaum, subsequent to the taking of said deposition and prior to the trial herein, and was informed by the said Louis Greenbaum that he knew and could remember nothing concerning whether or not there was an actual robbery at Calexico on December 31, 1939, and that contrary to affiant's information, said Louis Greenbaum had not represented Max Rosenthal in a controversy between said Max Rosenthal and the said Sydney M. Williams, nor could he remember any transactions [53] or conversations with the said Sydney M. Williams concerning said robbery nor any claim which the said Max Rosenthal had against the said Sydney M. Williams prior to the death of the said Max Rosenthal; that said Louis Greenbaum informed affiant that he vaguely remembered that Elizabeth J. Williams did tell him some story about there actually being no hold-up, but that such conversation occurred a long time ago and his memory was in such condition that he could be of no help as a witness



herein; that affiant is informed and believes, and therefore states the facts to be, that Herbert Ganahl, referred to in said affidavit, was associated as co-counsel for the defendant Elizabeth J. Williams, in the divorce action by Sydney M. Williams against her, a month or more after the date of the trial of said divorce action.

Affiant has no information or belief which would enable him to ascertain, or even surmise, how, or in what manner, the testimony of the said Louis Greenbaum or Herbert Ganahl might or could materially assist the court in a proper determination of the above-entitled matter, or whether their testimony would be corroborative of, accumulative to, or rebuttal or impeachment of the said Elizabeth J. Williams or said Sydney M. Williams, but your affiant states that subsequent to the taking of the deposition of Elizabeth J. Williams, and prior to the trial of the above-entitled matter, both the said Louis Greenbaum and Herbert Ganahl were available to the said George Penney for an interview and could have been subpoenaed as witnesses in the above-entitled matter; that no evidence they could now give could properly be newly discovered evidence which the defendant Sydney M. Williams could not, with reasonable diligence, have discovered prior to the trial; that there was not, on behalf of the defendant Sydney M. Williams, "Genuine or excusable surprise or mistake in the course of the trial, and with respect to the evidence adduced therein,—which mistake and surprise were contributed to by the conduct of the plaintiff's attorneys"; that further, the said Charles B. [54] Taylor, referred to in said affidavit of the said George Penney, is not an attorney for the plaintiff, but is and was the attorney for Elizabeth J. Williams, a co-defendant herein.

(b) Regarding Affidavit of Emanuel M. Lippett:

That said Emanuel M. Lippett, whose affidavit accompanies the Notice of Motion for New Trial herein, appeared in the above-entitled court during the trial thereof on the 13th and 14th days of December, 1944; that the said Emanuel M. Lippett is well known to the defendant Sydney M. Williams, and his presence in court during said times was observed by the defendant Sydney M. Williams; that the said Emanuel M. Lippett testified on behalf of the plaintiff herein and was cross-examined by the attorney for Sydney M. Williams during the trial hereof; that although both the ring and the watch referred to in the affidavit of Emanuel M. Lippett were in evidence and in court during both of said times, and the said person had an opportunity to examine said exhibits and had previously done so prior to the trial, the said Emanuel M. Lippett was asked no questions concerning his appraisal of said ring and watch by the attorney for the said Sydney M. Williams while the said Emanuel M. Lippett was on the witness stand, nor was any inquiry of any kind made concerning said watch or ring by the said defendant or his attorney.

That your affiant, subsequent to the taking of the deposition of Elizabeth J. Williams, but prior to the trial herein, interviewed the said Emanuel M. Lippett and exhibited the watch and ring to the said Emanuel M. Lippett, and was then informed by the said Emanuel M. Lippett that the watch and its bracelet attachment appeared to be the watch and bracelet attachment which he had previously appraised; that in his opinion said watch and bracelet attachment were worth the sum of \$350.00 as of the date of the appraisal, and that the friendship ring was worth the sum of \$300.00 at that time, and more at the present time; that on December 12, 1944,



the said Emanuel M. Lippett telephoned [55] your affiant inquiring when he would be called as a witness, and at that time informed your affiant that when called as a witness he would testify that the ring and the watch were, in his opinion and to the best of his recollection, the identical ring and watch which he had appraised for the said Sydney M. Williams for the purpose of insuring the same; that the said Emanuel M. Lippett was then requested to appear in court the next day as a witness; that on the next day said Emanuel M. Lippett informed your affiant that unless affiant had the original appraisal, made and signed by him, which affiant did not have, that he, the said Emanuel M. Lippett, could not testify regarding the said ring and watch; that affiant was therefore unable to call the said Emanuel M. Lippett as a witness in behalf of the plaintiff, but the said Emanuel M. Lippett was thereafter called as a rebuttal witness with regard to the method of appraisal, his said testimony appearing at pages 263 to 275 of the Reporter's Transcript of the proceedings herein.

(c) Regarding Affidavit of David Riskin:

That on or about the 12th day of December, 1944, your affiant personally interviewed said David Riskin, whose affidavit is attached to the Notice of Motion for New Trial herein; that at said time said David Riskin was asked whether he recalled a transaction in the month of February, 1939, in which he received a check in the sum of \$500.00 from Sydney M. Williams, and what said check was in payment of; that said David Riskin informed affiant that he had no knowledge or memory whatsoever of said transaction, and that he would be unable to testify concerning the same or what said check was in payment of, if anything; that he did not remember

selling a friendship ring or a 3-Carat engagement ring to the said Sydney M. Williams at that time, and that, because of his complete loss of memory and recollection, he would be unable to testify concerning any of the said facts; that the said David Riskin also informed your affiant that he had [56] no recollection of any transaction in 1939, during which Elizabeth J. Williams and Sydney M. Williams appeared before him together and purchased from him some jewelry, and that he had no records, his records having been destroyed in a fire.

That the said David Riskin was present in court on December 13, and December 14, 1944, as a spectator, and during said time was observed by your affiant on several occasions consulting and advising with the defendant Sydney M. Williams; that during said time, and prior to the taking of all of the evidence herein, affiant is informed and believes, and therefore states, that the said David Riskin examined the said watch and ring, then filed as exhibits with the court, and thereafter conversed, advised, and consulted with the said Sydney M. Williams.

(d) Regarding Affidavit of Irving H. Laykin:

That subsequent to the taking of the deposition of Elizabeth J. Williams, but prior to the trial in the above-entitled action, your affiant went to the Master Aircraft Parts Co., 249 North Reno, Los Angeles, California, for the purpose of interviewing Irving H. Laykin in regard to the above-entitled matter; that while there your affiant was informed by an office employee, or manager, that Mr. Laykin was and is a very busy man engaged in defense industry, and that it might be difficult for him to personally interview Mr. Laykin, but if affiant wished to speak to him by telephone, said employee, or manager,

would call the said Irving H. Laykin by telephone at Young's Health Club, 5th Street and Hill Street, Los Angeles, California, and get him on the telephone for affiant, which said person thereupon purported to do; that affiant was then connected with a person purporting to be Irving H. Laykin and asked the said Irving H. Laykin whether he knew Sydney M. Williams, and whether or not he recalled appraising various articles of jewelry for the said Sydney M. Williams; that the said Irving H. Laykin informed your affiant that he knew Sydney M. Williams and recalled having looked at [57] some pieces of jewelry for him, but that he could not remember when or what pieces of jewelry they were, nor whether he had appraised a 3-Carat diamond ring or a platinum diamond wrist watch with bracelet attachment, nor could he recall the value of any of said articles; that he had not seen said Sydney M. Williams for some time; that, as he recalled it, said Sydney M. Williams was always trying to "chisel a bargain", and that it is quite possible that said Sydney M. Williams purchased a diamond wrist watch from him for \$55.00 in 1937, which price would probably have been greatly under its retail value; that affiant asked the said Irving H. Laykin whether he would so testify in court as a witness and was informed by the said Irving H. Laykin that there would be no such need for his testimony, because Sydney M. Williams admitted, and would admit in court, that he had purchased said watch from him at that time for the said sum; that the said Irving H. Laykin further informed your affiant that he could not recall the make or description of the watch, but, in fact, his recollection of the whole transaction was very poor, and further, his records had been lost in a fire and could not be produced.

That affiant makes this affidavit for the purpose of showing that neither the defendant Sydney M. Williams nor his attorney could have been taken by surprise in the above-entitled matter regarding the testimony of the persons herein above referred to, nor would such evidence, if introduced, be newly discovered evidence which the defendant, in the exercise of reasonable diligence, could not have discovered prior to the trial of this action; that said testimony, if introduced at a new trial hereof, would not only be subject to impeachment, but would be merely corroborative, or accumulative, or rebuttal, or impeaching testimony.

HUNTINGTON P. BLEDSOE [58]

Subscribed and Sworn to Before Me This 22nd day of January, 1945.

Seal

ROBERT W. COOPER

Notary Public in and for the County of Los Angeles,  
State of California

[Endorsed]: Filed Jan. 22, 1945. [59]

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[Minutes Tuesday, February 20, 1945.]

Present: The Honorable Peirson M. Hall, District Judge.

This cause having heretofore come before the Court for hearing on motion of defendant Sydney Williams for a new trial, to amend Findings of Fact and Conclusions of Law, to direct the entry of a new judgment and motion to correct Findings and to make same more definite and

certain, and evidence in the form of oral argument having been heard in support of and in opposition to said motions, and same having been duly heard and considered, the Court, being now fully advised in the premises, orders said motions denied. [60]

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[Title of District Court and Cause.]

### NOTICE OF APPEAL

To the Continental Insurance Company of New York, a corporation; and to Hindman & Davis and Huntington P. Bledsoe, its attorneys:

Notice Is Hereby Given that Sydney M. Williams, a defendant in the above-entitled action, does hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the final judgment entered in the within action on or about the 2nd day of January 1945, and from the orders of the court in the within action denying said defendant's motion for a new trial, motion to amend findings of fact and conclusions of law and direct the entry of a new judgment, and motion to correct findings and make the same more definite and certain.

Dated this 2nd day of March 1945.

GEORGE PENNEY

Attorney for Defendant Sydney M. Williams

[Endorsed]: Filed & mld. copy to Hindman & Davis & H. P. Bledsoe, attys. for plf. Mar. 7, 1945. [61]

[Title of District Court and Cause.]

STIPULATION RE SUPERSEDEAS AND  
COST BOND

It Is Hereby Stipulated by and between plaintiff and defendant Sydney M. Williams in the above-entitled action that the court make an order fixing the supersedeas and cost bond on appeal to be filed by the defendant Sydney M. Williams in relation to an appeal to be taken in the above-entitled action by said defendant in the sum of Six Thousand Two Hundred and Fifty Dollars (\$6250).

Dated February 26, 1945.

HINDMAN & DAVIS AND  
HUNTINGTON P. BLEDSOE

By Huntington P. Bledsoe  
Attorneys for Plaintiff

GEORGE PENNEY

Attorney for Defendant Sydney M. Williams [62]

In accordance with the foregoing stipulation It Is Hereby Ordered that the amount of the supersedeas and cost bond on appeal to be filed by the defendant Sydney M. Williams in relation to an appeal to be taken by it in the above-entitled action be and hereby is fixed at the sum of Six Thousand Two Hundred and Fifty Dollars (\$6250).

Dated this 27 day of February 1945.

PEIRSON M. HALL  
Judge

[Endorsed]: Filed Feb. 28, 1945. [63]



[Title of District Court and Cause.]

• SUPERSEDEAS AND COST BOND ON APPEAL

Know All Men by These Presents, That We, Sydney M. Williams et al., as Principal, and the Glens Falls Indemnity Company, a Corporation duly organized and existing under the laws of the State of New York and duly qualified for the purpose of making, guaranteeing or becoming surety upon bonds or undertakings required or authorized by the laws of the United States of America, as Surety, are held and firmly bound unto The Continental Insurance Company of New York, a corporation, Plaintiff above named, in the sum of Six Thousand Two Hundred Fifty (\$6250.00) Dollars, lawful money of the United States, to be paid to The Continental Insurance Company of New York, a Corporation, or its successors, to which payment well and truly to be made, we bind ourselves, and our successors, jointly and severally, firmly by these presents.

Whereas, said Sydney M. Williams, a Defendant in the above entitled cause in said District Court of the United States, Southern District of California, Central Division, is about to appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from a judgment made and entered against the said Sydney M. Williams and in favor of The Continental Insurance Company of New York, a Corporation, on or about the 2nd day of January, 1945 in the sum of \$4250.00 together with interest thereon at the rate of 7 percent per annum from March 10, 1940, together with costs in the sum of \$130.44; and is also about to appeal from the court's order denying said defendant's motion for a new trial, motion to amend findings of fact and conclusions of law and direct the entry



of a new judgment, and motion to correct findings and to make the same more definite and certain; and

Whereas, the said Sydney M. Williams is desirous of staying the execution of said judgment and of said orders.

Now, Therefore, the condition of the above obligation is such that if the said defendant Sydney M. Williams, shall prosecute said appeal to effect, and satisfy the judgment in full, together with costs, interest and damages for delay, if for any reason the appeal is dismissed or if the judgment is affirmed, and satisfy in full such modification of the judgment and such costs, interest and damages as the Appellate Court may adjudge and award, and if said defendant Sydney M. Williams fails to make good his plea, then the above obligation to be void, otherwise to remain in full force and virtue.

In Witness Whereof, the Principal has hereunto set his hand and seal and the Surety has caused this instrument to be executed by its duly authorized Attorney this 1st day of March, 1945.

SYDNEY M. WILLIAMS

Principal

GLENS FALLS INDEMNITY COMPANY

By: HARRY LEONARD

Attorney

State of California,

County of Los Angeles—ss.

On this 1st day of March in the year One Thousand Nine Hundred and Forty-five before me, Marwin F. Jonas, a Notary Public in and for the said County of Los Angeles, residing therein, duly commissioned and

sworn, personally appeared M. Klotz known to me to be the Attorney of the Glens Falls Indemnity Company, the Corporation that executed the within instrument, and known to me to be the person who executed the said instrument on behalf of the Corporation therein named and acknowledged to me that such Corporation executed the same.

In Witness Whereof I have hereunto set my hand and affixed my official seal in the County of Los Angeles, the day and year in this certificate first above written.

(Seal)

MARWIN F. JONAS

Notary Public in and for the County of  
Los Angeles, State of California.

My commission expires Nov. 2, 1947.

[Endorsed]: Filed Mar. 7, 1945. [64]

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[Title of District Court and Cause.]

STATEMENT OF POINTS UPON WHICH APPELLANT INTENDS TO RELY IN THE APPEAL OF THIS CASE

I

That the findings of fact do not support the conclusions of law or judgment in said case.

II

That the judgment is contrary to law.

III

That the evidence is insufficient to sustain the findings of fact of the trial court.

#### IV

That the trial court failed to make findings on material issues raised by the pleadings, to wit:

- A. What the actual value was of those certain articles set forth in the defendant's proof of loss and specifically mentioned in Paragraph IX of plaintiff's complaint.
- B. Whether or not said defendant falsely or fraudulently [65] represented the value of said articles.
- C. That certain of the articles of jewelry involved in the alleged fraud of which plaintiff complains were, at the time of the trial and judgment, in the possession of the plaintiff.
- D. That certain articles introduced in evidence as having been involved in said holdup were not the articles listed in or covered by plaintiff's policy of insurance nor the articles listed in defendant's proof of loss.

#### V

That the judgment is excessive in that it appears from the evidence that the plaintiff had possession of certain articles of jewelry alleged to have been set forth in defendant's proof of loss; whereas said judgment now includes the value of said articles in possession of the plaintiff without giving credit therefor to this defendant.

#### VI

That the trial court erred in denying defendant's motion for a new trial.

#### VII

That the court erred in denying defendant's motion to amend findings of fact and conclusions of law and direct the entry of a new judgment.

VIII.

That the court erred in denying defendant's motion to correct the findings and to make the same more definite and certain.

Dated this 2nd day of March 1945.

GEORGE PENNEY

Attorney for Defendant Sydney M. Williams

[Endorsed]: Filed Mar. 7, 1945. [66]

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[Title of District Court and Cause.]

ORDER AS TO ORIGINAL EXHIBITS

Upon Reading and Filing the Supplemental Designation of Record on Appeal, and good cause appearing, it is,

Ordered that all original exhibits introduced during the trial of the above-entitled cause, including therein the physical exhibits introduced during the trial, shall be sent to the Circuit Court of Appeals of the United States for the Ninth Circuit at San Francisco, California, by registered mail, to be held in the office of the clerk of said Circuit Court of *Appeal* for the examination and inspection of said Circuit Court of Appeals, and to be returned by registered mail to this Court together with the remittitur, which will issue from said Court upon said Court's decision on appeal.

It Is Further Ordered that the costs of transportation and [74] registering be borne by the defendant and appellant, Sydney M. Williams.

Dated: 5/1/45.

PEIRSON M. HALL

Judge

[Endorsed]: Filed May 1, 1945. [75]

[Title of District Court and Cause.]

### CERTIFICATE OF CLERK

I, Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 75 inclusive contain full, true and correct copies of Complaint in Fraud for Money; Answer of Sydney M. Williams; Answer of Elizabeth J. Williams; Minute Order Entered December 14, 1944; Objections to Findings of Fact and Conclusions of Law and Judgment; Findings of Fact and Conclusions of Law; Judgment; Notice of Entry of Judgment; Notice of Hearing on Motion for New Trial etc.; Motion for New Trial, Motion to Amend Findings of Fact and Conclusions of Law and Direct the Entry of a New Judgment, and Motion to Correct Findings and to Make the Same More Definite and Certain; Separate Affidavits of George Penney; Rosalind Goodrich Bates, David Riskin, Emanuel M. Lippett, Irving H. Laykin and Huntington P. Bledsoe; Minute Order Entered February 20, 1945; Notice of Appeal; Stipulation and Order re Supersedeas and Cost Bond; Supersedeas and Cost Bond on Appeal; Statement of Points Upon Which Appellant Intends to Rely in the Appeal of this Case; Designation of Record on Appeal; Affidavit of Service by Mail; Stipulation and Order re Exhibits and Extending Time to Docket Appeal; Supplemental Designation of Record on Appeal; and Order as to Original Exhibits which, together with Original Plaintiff's Exhibits 1 to 11, inclusive and 13 and Original Defendants' Exhibits A and AA and Copy of Reporter's Transcript transmitted herewith, constitute the record on appeal to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify that my fees for preparing, comparing, correcting and certifying the foregoing record amount to \$17.80 which sum has been paid to me by appellant.

Witness my hand and the seal of said District Court this 2 day of May, 1945.

EDMUND L. SMITH,

(Seal)

Clerk

By THEODORE HOCKE

Chief Deputy Clerk

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[Title of District Court and Cause.]

#### SUPPLEMENTAL CERTIFICATE OF CLERK

I, Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that during the trial of the above-entitled cause there was received in evidence as Plaintiff's Exhibit 12 the files of the Superior Court of the State of California in and for the County of Los Angeles No. 198085 entitled Williams v. Williams and same is hereby certified as a part of the record on appeal in the above entitled cause to the United States Circuit Court of Appeals for the Ninth Circuit.

Witness my hand and the seal of said District Court this 18th day of June, 1945.

(Seal)

EDMUND L. SMITH,

Clerk,

By Theodore Hocke

Chief Deputy Clerk.

[Endorsed]: Filed Jun. 19, 1945. Paul P. O'Brien, Clerk.



[Title of District Court and Cause.]

Hon. Peirson M. Hall, Judge Presiding.

REPORTER'S TRANSCRIPT OF TESTIMONY  
AND PROCEEDINGS ON TRIAL.

Los Angeles, California, December 12, 13, 14, 1944.

Appearances :

Hindman & Davis, by  
E. Eugene Davis, Esq., and  
Huntington P. Bledsoe, Esq.,  
For Plaintiff.

George Penney, Esq.,  
For Defendant Sydney M. Williams.

Charles B. Taylor, Esq.,  
For Defendant Elizabeth J. Williams.

Mr. Davis: If the court please, we allege and expect to prove that the plaintiff issued the insurance policy, and we expect to prove the making of the claim and the payment of the money, and that is admitted in the pleadings. And we expect to prove that subsequently we discovered that the claim was false, that there had been no robbery, and that the statements in such proof of loss were falsely made. The defendants each admit the execution of the policy and the making of the claim and the receipt and payment of the money.

The defendant Elizabeth Williams admits all of the allegations of the complaint, except that she denies that she got the money.

The Court: She denies that she got the money under the insurance policy?

Mr. Davis: Yes, your Honor.

The Court: And the other defendant admits that he got the money?



Mr. Davis: Yes.

The Court: The insurance policy was issued, and was dated June 2, 1939, and the alleged robbery occurred December 31, 1939; is that correct? [3\*]

Mr. Davis: That is correct.

The Court: There is no issue as to the issuance of the policy?

Mr. Taylor: None whatever, your Honor.

The Court: And there is no controversy as to its terms?

Mr. Penney: None whatsoever.

The Court: As to the property it covered?

Mr. Penney: No, your Honor.

The Court: As to the making of the claim for the robbery?

Mr. Penney: No, your Honor.

The Court: And as to the payment by the insurance company of the money on the robbery?

Mr. Penney: That is right.

The Court: And its acceptance by the defendant Sydney Williams?

Mr. Penney: That is right.

The Court: The issue, then, boils down to this, as to whether or not the alleged robbery on December 31st was a robbery?

Mr. Davis: Yes, your Honor. They all come under the same proof. I would like to call the defendant Elizabeth Williams as a witness under Section 43 (b) of the Rules.

The Court: All right. Elizabeth Williams. [4]

## ELIZABETH J. WILLIAMS,

called as a witness on behalf of plaintiff, under the provisions of Rule 43 (b), being first duly sworn, testified as follows:

The Clerk: State your name.

A. Elizabeth J. Williams.

The Clerk: And your address.

A. Woodlake, California.

The Court: You are calling this witness under the provisions of the Rules of Civil Procedure, permitting you to call an adverse party and cross-examine her, without being bound by her testimony?

Mr. Davis: That is correct, your Honor, under 43 (b) of the Federal Rules.

The Court: And counsel has explained to you the effect of such a rule of law, has he?           A. Yes.

## Direct Examination

Q. By Mr. Davis: You are Elizabeth Williams?

A. Yes.

Q. And you reside at Woodlake, California?

A. Yes.

Q. How long have you been living there?

A. About four months.

Q. And you went there from Los Angeles?

A. Yes, sir. [5]

Q. Mrs. Williams, you and the other defendant, Sydney Williams, were formerly husband and wife?

A. Yes, sir.

The Court: Do you have some notes there?

A. No, I haven't. I am just marking. Do you mind?

The Court: Well, just leave the paper. If you want to play with a pencil, here are a lot of them, if you want to play with them.

(Testimony of Elizabeth J. Williams)

The Witness: All right.

Q. By Mr. Davis: You and the defendant Sydney Williams were formerly husband and wife?

A. Yes.

The Court: You are not now? A. No.

Q. By Mr. Davis: When were you married?

A. June 3, 1939.

Q. When were you divorced?

A. In October or November, 1941, I believe.

Q. That is when the decree was entered?

A. Yes.

The Court: Final? A. I don't know about final.

The Court: Does counsel know?

Mr. Taylor: I believe it was an interlocutory decree.

Mr. Bledsoe: 1941, in October.

The Court: Final? [6]

Mr. Bledsoe: In October.

Mr. Davis: You will stipulate that final decree has been entered?

Mr. Penney: It is stipulated that final decree has been entered.

Q. By Mr. Davis: Mrs. Williams, during the marriage of yourself and Sydney Williams, did you and Mr. Williams have certain property, consisting of jewelry?

A. Yes, sir.

Q. So that we will be referring to the same items all the time, I am handing you this paper.

The Court: That is a memorandum of the items contained in the insurance policy?

Mr. Davis: Yes, as contained in paragraph 5 of the policy. That is for reference only.

(Testimony of Elizabeth J. Williams)

Q. By Mr. Davis: During your marriage did you have any of the articles described in that list? Say yes or no, and then I will ask you specifically.

A. Yes.

Q. Calling your attention—

The Court: By the way, so that the record may be kept straight, we had better have this paper she has marked for identification, and it will be marked Plaintiff's Exhibit 1 for identification.

Q. By Mr. Davis: I direct your attention to one platinum diamond watch with diamond bracelet attachment [7] containing 84 diamonds and two baguettes. Did you have an item answering that description?

A. Yes, sir.

Q. When did you acquire it? When did you get it?

A. We got the watch the latter part of July, 1937.

Q. Do you know where you got it?

A. Yes. I bought it from Laykin's.

The Court: Of course, we don't know who Laykin was or what.

A. He had a jewelry store on Fifth Street, I believe.

Q. By Mr. Davis: When did you get the bracelet attachment?

A. The day—just before we were married, from Lippett.

The Court: Who is Lippett?

A. I don't know how to spell it.

The Court: Where is he?

A. Well, I believe he had an office on Sixth Street, but I met him at Hutton's.

Q. By Mr. Davis: You might explain how you met Mr. Lippett. How did you happen to buy that watch at the—

(Testimony of Elizabeth J. Williams)

A. We met Mr. Lippett at the stock market.

Q. Did you transact the business there?

A. Some of it. No, we went up to his office.

Q. Now, one platinum diamond wedding ring with 11 diamonds—where and when did you get that? [8]

The Court: That is not involved in this suit, is it?

Mr. Davis: Well, it is not involved, but it is part of the—I think she can explain in a few words.

The Court: All right.

A. Mr. Lippett made the wedding ring also.

Q. By Mr. Davis: Did you or did you not get the wedding ring at the same time you got the attachment for the watch?

A. Yes, we did.

Q. One diamond friendship ring, large center with 14 smaller round stones set in platinum. Where did you get that?

A. Mr. Williams gave it to me in July or August of 1937.

Q. Do you know where he got it?

A. No, I don't.

Q. One diamond and emerald bracelet set in platinum with 1 Marquise center and 74 full-cut diamonds weighing approximately 5 carats. When did you acquire that?

A. I believe in June, just before we were married.

Q. From whom did you get that?

A. Mr. Lippett.

The Court: You bought it?

A. Yes, sir.

The Court: Or Mr. Williams bought it?

A. Mr. Williams bought it.

The Court: Did he buy it and give it to you? [9]

A. Yes, sir.

(Testimony of Elizabeth J. Williams)

Q. By Mr. Davis: The next item is, 1 platinum diamond engagement ring, center stone weighing approximately 3 carats, also containing 8 baguettes and 22 round diamonds. Where was that acquired?

A. From Dave Riskin.

Q. Where was he located at that time?

A. He was in the Loew's State Building at that time.

Q. When was that acquired, approximately?

A. The first part of February, 1939.

Q. Were you present when he bought it?

A. Yes, sir.

Q. Do you know how much he paid for it?

A. \$500.

The Court: That it item No. 4?

Mr. Davis: Item No. 5.

The Court: Item No. 5?

Mr. Davis: Yes.

The Court: Who paid for it? Did you buy it?

A. Mr. Williams bought it.

The Court: And gave it to you?

A. Yes, as my engagement ring.

Q. By Mr. Davis: Item No. 6, 1 gent's diamond ring measuring scant 2 carat center. Do you know when that was acquired? A. Yes, sir. [10]

Q. And where? When was it acquired?

A. I think just before we were married.

Q. Have you any memorandum or data from which you could get the date? A. Yes, I have.

Q. What have you? A. I have a check.

Q. Will you produce it? A. Yes.

Mr. Davis: You have handed me a document. I will have this marked first.



(Testimony of Elizabeth J. Williams)

The Court: Do you want to use it to refresh her recollection?

Mr. Davis: I want to introduce it in evidence—both.

The Court: Let us mark it as Plaintiff's Exhibit No. 2 for identification, then. That is a check?

Mr. Davis: That is a check.

The Court: Dated when?

Mr. Davis: Dated 5/5/1939. That would be May 5, 1939, would it not? A. Yes.

The Court: In the sum of what?

Mr. Davis: In the sum of \$250, to John Marcin.

Q. Does that refresh your memory as to the time any of these jewels were bought?

A. Yes. It was just a month before we were married.

[11]

Q. Were you present when that jewelry was bought?

The Court: Whose check is that?

Q. By Mr. Davis: Whose check is this?

A. Mr. Williams'.

The Court: Is his signature on it?

A. Yes, sir.

Q. By Mr. Davis: And does it have—

Mr. Penney: I will stipulate that that is Mr. Williams' check and was drawn on Mr. Williams' account.

Q. By Mr. Davis: I will ask you if you were present when the transaction was made. A. Yes, sir.

Q. And did you know the man from whom the diamond was bought? A. Yes, sir.

Q. Who was he?

A. Well, he was a friend that worked on the boat and helped us when we were around with the boat.

Q. John Marcin?

(Testimony of Elizabeth J. Williams)

A. Yes. And he also worked at the garage where we had the car, part of the time.

Q. Do you know whether the notation above the endorsement was on there at the time the check was given, the notation being, "1 man's diamond ring"?

A. Yes.

Q. Do you know whose handwriting that is? [12]

A. Mr. Williams'.

Mr. Davis: We will offer this in evidence as Plaintiff's Exhibit No. 2.

The Court: Is there any question but what this is the total sum paid for the ring?

Mr. Penney: Your Honor, we shall establish that this particular check was not involved in this litigation, that this check was given for a ring, but we shall establish what ring it was.

The Court: It is admitted in evidence.

Q. By Mr. Davis: Mrs. Williams, referring back to item No. 1, purchased from Laykin, do you know what was paid for this platinum diamond watch?

A. \$50 or \$55.

Q. Do you have a memorandum or a check?

A. Yes, I have a check for that.

Q. Showing the payment for that item?

A. Yes, I have.

Mr. Davis: I want to show it to counsel first. I would like to have this check marked for identification.

The Clerk: Plaintiff's Exhibit No. 3 for identification.

Mr. Davis: For your convenience, your Honor, may I just read the check to you?

The Court: Yes.

(Testimony of Elizabeth J. Williams)

Mr. Penney: We will stipulate again that this check is Mr. Williams' check and was drawn against his account. [13]

The Court: It is for identification, and he thought the record ought to have a description of it, what it purports to be.

Mr. Davis: This purports to be a check drawn on the Sixth and Spring office of the Security-First National Bank, dated August 28, 1937, "Pay to the order of Laykin Diamond Co. \$55.00", and signed "Sidney M. Williams", and endorsed, "Pay to the order of Citizens National Trust & Savings Bank of Los Angeles, Laykin Diamond Co.," the endorsement being by stamp.

The Court: The stipulation is that that was Mr. Williams' check, and was drawn on his account, and that it was paid?

Mr. Penney: Yes, your Honor.

The Court: And that it was paid for the watch that is—

Mr. Penney: No, your Honor. There will definitely be a conflict in the evidence on that.

Q. By Mr. Davis: Mrs Williams, will you look at this check, which is dated August 28, 1937, and state whether or not that check was paid for the watch which is described in item No. 1 of that memorandum, Plaintiff's Exhibit 1, which you have there?

A. Yes, that was the check that was paid for it.

Mr. Davis: We offer this check in evidence.

Q. Referring again to item No. 1 and the bracelet described therein, which you say you purchased from Lay-

(Testimony of Elizabeth J. Williams)

kin, [14] have you any check or memorandum showing payment for that item?

A. Yes, for the bracelet, my watch, and my wedding ring.

Mr. Davis: Mr. Bledsoe calls my attention to the fact that maybe I had better refer to that as an attachment, instead of a bracelet. That is a watch attachment. Do you have that check? A. Yes.

Q. May I see that?

Mr. Penney: Which item is this?

Mr. Taylor: Is No. 3 admitted in evidence, your Honor?

The Court: Yes. That is the check for \$55. I don't think I formerly indicated that, but I will do so now.

Mr. Penney: We will stipulate again that this is his check and was drawn against his account.

Mr. Davis: I will ask to have this instrument marked for identification.

The Court: Mark it No. 4 for identification.

Mr. Davis: Q. Describing the document, No. 4 for identification, it is supposed to be a check drawn on the Sixth and Spring Street Office of the Security-First National Bank, dated 5/12/1939. That is May 12, 1939?

A. Yes.

Mr. Davis: It is drawn to the order of E. M. Lepetz, in the sum of \$90, and signed "Sydney M. Williams." and [15] endorsed on the back, "E. M. Lepetz."

Q. Will you state for what that check was given?

A. For the attachment to the watch and the wedding ring.

Q. Were you present when the transaction was made?

Mr. Penney: I didn't get that last answer.

(Testimony of Elizabeth J. Williams)

Mr. Davis: For the attachment for the watch and the wedding ring.

The Court: That is what you described as a diamond bracelet attachment containing 84 diamonds and 2 baguettes, and 1 platinum diamond wedding ring with 11 diamonds?

Mr. Davis: Yes—item No. 1.

The Court: Is that it?

A. Yes.

The Court: It was given for the attachment of which I just read the description and the diamond wedding ring?

A. Yes.

Q. By Mr. Davis: Where did this transaction take place?

A. Up in Mr. Lepetz' office.

Mr. Davis: We will offer in evidence this check as Plaintiff's Exhibit No. 4.

The Court: Admitted. Were you present at that time?

A. Yes, sir.

The Court: What happened? Who else was there?

A. Mr. Williams and myself, and I think we were the only two there. [16]

The Court: And Mr. Lepetz? A. Yes.

The Court: What happened? What did you say?

A. Well, he just—

The Court: Didn't somebody say, "I want a watch," or "I want a diamond ring"?

A. Yes. We had gone up before that.

The Court: Previously?

A. And taken the measurements.

The Court: Previously you had taken the measurements for the bracelet attachment?

A. Yes; and he made it up for us.

(Testimony of Elizabeth J. Williams)

The Court: And for the diamond wedding ring?

A. Yes; he made that up for us.

The Court: How long previously?

A. I think about a week.

The Court: Did he tell you how much it was going to cost? A. I don't think so.

The Court: When did you find out how much they were going to cost?

A. At the time we gave him the check.

The Court: And not until then? A. No.

The Court: How did Mr. Williams find out how much they were going to cost? [17]

A. Well, he would stop and talk every day with Mr. Lepetz, and I suppose they discussed it.

The Court: You mean that when you were present neither one said anything to the other about how much it was going to be?

A. Yes; Mr. Williams asked Mr. Lepetz.

The Court: What did Mr. Williams say?

A. Asked him how much it was going to cost him.

The Court: Is that what he said—"How much are you going to charge me"? A. Yes.

The Court: That was after he delivered them?

A. When we went up for them.

The Court: And you put the watch and the ring on then? A. Yes.

The Court: The wedding ring?

A. No, not then.

The Court: When he asked how much it was going to cost, what did Mr. Lepetz say?

A. \$90 for the two.



(Testimony of Elizabeth J. Williams)

The Court: Was that all that you bought from Mr. Lepetz? A. No. At that time it was.

The Court: \$90 for the two? A. Yes.

The Court: And Mr. Williams took his check book out and [18] gave him a check? A. Yes.

The Court: Did he get a receipt?

A. I don't remember.

The Court: Did he get a statement? A. No.

The Court: A bill? A. No.

The Court: Or a bill of sale?

A. No, because he was a wholesale diamond man; he wasn't a retailer.

The Court: Why do you say "because"?

A. Well, he wasn't supposed to sell the rings to a private party.

The Court: All right. Excuse me, counsel.

Mr. Davis: That is all right.

Q. By Mr. Davis: What kind of a place would you say Mr. Lepetz had? Was it a store?

A. It was a work shop. It wasn't a store. He had a work room and a small office.

Q. Where did you say that was?

A. I believe it was on Sixth Street.

Q. Upstairs?

A. Yes. I don't know what building.

Q. Did he have any employees around?

A. Yes; there was a man there. [19]

Q. How did you get acquainted with him?

A. We met him at Hutton's.

Q. Did you know him before that? Did Mr. Williams know him? A. No, I didn't.

Q. What was he doing at that time?

A. Playing the market.

(Testimony of Elizabeth J. Williams)

Q. What were you doing?

A. The same thing.

Q. And Mr. Williams? A. Yes.

Q. Where was Hutton's located?

A. On Olive Street.

Q. Olive and what?

A. Between Fifth and Sixth.

Q. Olive Street or Spring Street?

A. Olive.

Q. I believe you stated that you didn't know where the diamond friendship ring came from.

A. No. He gave that to me.

Q. You don't know when that was bought?

A. No.

Q. You stated that you bought this diamond bracelet from Lippett? A. Yes.

Q. Have you any memorandum or check to show what was [20] paid for that?

A. Yes; there was a check used in the divorce case, Mr. Davis.

Q. Used in the divorce case? A. Yes.

Q. Do you know what was paid for that bracelet?

A. \$350.

Q. Are you sure of that?

A. I believe it was \$350. It could be different.

Q. Were you present when that was paid?

A. No.

The Court: That was bought from Lippett?

A. Yes.

Mr. Davis: That is item No. 4, your Honor.

Q. By Mr. Davis: Did you hear any discussion between Mr. Williams and Mr. Lippett about the purchase of it? A. No, I didn't.

(Testimony of Elizabeth J. Williams)

Q. How did you know it cost \$350?

A. Mr. Williams told me.

Q. And you saw the check subsequently to the time it was given?

A. Yes, sir.

Q. And you think it was introduced in the divorce case?

A. Yes, it was.

Q. The next item, item No. 5, 1 diamond platinum [21] engagement ring—you said that was bought from whom?

A. David Riskin.

Q. And his office is in Loew's State Building?

A. Yes. I don't believe he had an office. He was working out of somebody else's office.

Q. He didn't have a store?

A. No.

Q. Where was the transaction made?

A. In this other man's office.

Q. And you don't recall the name of the man?

A. No, I don't.

Q. Do you know whether it was upstairs?

A. Yes, it was upstairs.

Q. And what was the appearance of it? Was there a stock of jewelry around there?

A. Yes, there was.

Q. Any clerks around?

A. Yes.

Q. How was this transaction made with Riskin? I mean, did you just go in and say you were looking for some jewelry?

A. Mr. Williams had discussed it with Mr. Riskin.

The Court: That was the first time you met Mr. Riskin, was it?

A. No: I had met him on the street and had an introduction.

(Testimony of Elizabeth J. Williams)

Q. By Mr. Davis: That was the second time? [22]

A. Yes, sir.

Q. Was the transaction completed there at that time?

A. Yes, it was.

Q. And Mr. Williams gave him a check at that time?

A. Yes, sir.

Q. And that check was used also in the divorce?

A. Yes.

Q. It is in the files, you think?

A. Yes, I believe so.

Q. If I told you that there was a check in the divorce files, dated February 6, 1939, would you say that was the check? A. Yes.

Q. Covering these items? A. Yes.

Q. That was the approximate date when this transaction was had? A. Yes, it was.

Q. Now, Mrs. Williams, on December 31, 1939, did you and Mr. Williams have any other jewelry other than this described in the list which I have handed you, Exhibit No. 1 for identification? Do you understand the question? A. Yes.

Q. Did you have any other jewelry?

A. Yes. Mr. Williams had another small stone, a ring with a small stone in it, that he wore before he bought this [23] larger diamond.

Q. When you say "this larger diamond", you mean—

A. The two-carat diamond.

Q. No. 6? A. Yes.

Q. And what else?

A. Well, I had a cigarette case.

Q. Did Mr. Williams have an Elk pin?

Mr. Penney: Just a minute.

(Testimony of Elizabeth J. Williams)

Mr. Davis: I am cross examining her.

Mr. Penney: I object.

The Court: Overruled.

A. Yes, he had an Elk pin.

Q. By Mr. Davis: When you speak of jewelry, you mean with jewels in it? A. Yes.

Q. Your cigarette case, what was that?

A. It was a cigarette case that I had had for many years.

Q. Will you describe it?

A. It was a black case, and it had a platinum bee with diamonds in it, very small chips, and on the corners there were four stones.

Q. On what corners?

A. Around the bee.

Q. How large were the stones? [24]

A. I don't know. I imagine about 40 points.

Q. Have you any idea what the value of that cigarette case was?

A. No, I haven't. I know approximately how much it cost at the time it was bought.

Q. How much did it cost? A. It cost \$350.

Q. Did you have that on June 2, 1939, at the time—

A. Yes.

Q. Where was it at that time?

A. It was in the house.

Q. And where did you keep it in the house?

A. In my dressing table drawer.

Q. How long before June 2, 1939, had it been bought for \$350? A. In 1928 or 1929.

(Testimony of Elizabeth J. Williams)

Q. Now, this ring you said Mr. Williams had, can you describe that, that is, the ring in addition to those that you have enumerated here?

A. Well, it had the same size stone that my friendship ring had in it.

Q. That is the friendship ring described here as item No. 3? A. That is right.

Q. What sort of a setting did it have?

The Court: What size was that? [25]

A. About 80 point, I believe.

The Court: What is an 80-point stone?

A. There are 100-points to a carat.

Q. By Mr. Davis: Will you describe the setting?

A. It was just a plain ring mounting.

Q. A man's setting? A. Yes, sir.

Q. Do you know where he got that?

A. No, I don't. He was wearing it when I met him.

Q. What became of that when he got the ring described as item No. 6 here?

A. He put it away, to keep it.

Q. Do you know where he put it or kept it?

A. No.

Q. When was the last time you saw that ring?

A. May or June, 1939.

Q. About the time you bought item No. 6?

A. Yes, after that.

Q. After that?

A. Yes, sir. May or June, 1940. Pardon me.

Q. 1940? A. Yes.

Q. Now, the other item, the Elk's pin, can you describe that?

A. No. It was just an Elk's pin.



(Testimony of Elizabeth J. Williams)

Q. Did he ever wear it? [26]

A. No, not that I recall.

Q. Where did he keep that?

A. At the time I saw it he had it in his safe deposit box, and he showed it to me.

The Court: Where was that safe deposit box?

A. In the Security Bank—the same bank that the checks were made on.

The Court: When did he show it to you?

A. 1937.

Q. By Mr. Davis: And when was the last time you saw the Elk's pin? A. It was 1940.

The Court: What is the materiality of that?

Mr. Davis: I will withdraw that question.

Q. Now, those three items were the only pieces of jewelry either one of you had, in addition to these specified in the proof of loss or in the policy?

A. Yes.

Q. Now, on December 31, 1939, where were you?

A. We went to Calexico.

Q. Had you discussed the trip to Calexico with Mr. Williams before you went? A. Yes, sir.

Q. Where did you stay in Calexico?

A. At the Di Anzo Hotel.

Q. Did you take any jewelry to Calexico on December [27] 31, 1939? A. No, sir.

Q. When did you arrive in Calexico on December 31st?

A. It would be the day before.

Q. Did you take any jewelry there on the day before?

A. No, sir.

(Testimony of Elizabeth J. Williams)

Q. Of any kind?

A. I don't recall whether I took my cigarette case or not.

Q. Did you wear any jewelry down there?

A. No diamonds.

Q. Did you wear any jewelry of any kind?

A. Yes; I wore a ring.

Q. Will you describe that ring?

A. It was a ring we had bought at a Chinese store on Hollywood Boulevard.

Q. How much did you pay for it?

A. \$1.95 or \$2.95.

Q. Can you describe what it looked like?

A. It was a large white stone.

Q. Did it look like any of the jewels described in the list you have before you?

A. Yes—similar to my engagement ring.

Q. You paid \$1.95 for it?

A. \$1.95 or \$2.95. It was a cheap ring.

Q. And that was all the jewelry you had with you?  
[28]

A. No. Mr. Williams had his wrist watch.

The Court: Was that jewelry? I understood you to say that jewelry meant something with jewels in it.

Mr. Davis: Jewelry or watch. There is a wrist watch involved.

Q. That wrist watch, is this a description of it: 1 wrist watch, Gruen Curvex, yellow gold case?

A. Yes; he was wearing that watch.

Q. Was he wearing that watch? A. Yes.

Q. Was he wearing any other items of jewelry or adornment? Did he have any rings or pins?

(Testimony of Elizabeth J. Williams)

A. I don't know whether he was wearing the ring with the small stone in it or not; I can't recall.

The Court: Did he have any of these items?

A. No.

The Court: None of 1, 2, 3, 4, 5 or 6?

A. No.

The Court: Did you? A. No.

The Court: Did you take them with you in your suitcase? A. No.

The Court: Did he? A. No, sir.

Q. By Mr. Davis: Do you know where the jewels were, the jewels described in this list, on December 31, 1939? [29] A. Yes, sir.

Q. Where were they?

A. They were in an unfinished room behind our dressing room.

Q. Where? A. At 3418 La Sombra Drive.

Q. Los Angeles? A. Yes.

Q. And you discussed this matter with Mr. Williams before you left to go to Calexico? A. Yes.

The Court: Discussed what matter?

Mr. Davis: The matter of these jewels. I will withdraw that.

Q. By Mr. Davis: You discussed the trip to Calexico with Mr. Williams before you left? A. Yes.

Q. And you discussed the question of leaving the jewels in Los Angeles while you went to Calexico?

A. Yes.

Q. And discussed what would happen when you got down there? A. Yes, sir.

Q. Just what happened when you got to Calexico?

A. We registered at the hotel and had dinner across the line at Mexicali with some friends of his. [30]

(Testimony of Elizabeth J. Williams)

Q. And then what?

A. Then we spent the night at the hotel.

Q. Spent the night at the hotel at Calexico?

A. Yes.

Q. What did you do on the next day, on the 31st?

A. We drove to Yuma, Arizona.

Q. Then did anything happen to the wrist watch on the trip to Yuma?           A. Yes.

Q. What happened?

A. We were driving across a bridge over the All American Canal, and Mr. Williams stopped and threw his wrist watch in the canal.

Q. Then you came back to Calexico?

A. Yes, sir.

Q. And what happened?

A. We had dinner with Mr. and Mrs. Brown again.

Q. With Mr. and Mrs. Brown?

A. Yes, sir.

Q. Where did you have dinner?

A. In Mexicali there.

Q. Then what happened after dinner?

A. I had a sick headache, and I went to bed.

Q. What happened later that day?

A. Mr. Williams called me about 11:00 o'clock.

The Court: You came back to Calexico with Mr. and Mrs. [31] Brown, and what happened after that? Where did you have dinner?           A. In Mexicali.

The Court: What time did you finish?

A. About 7:00 o'clock.

The Court: Then what did you do?

(Testimony of Elizabeth J. Williams)

A. I went to bed.

Q. You went right back and went to bed after dinner?

A. Yes, sir.

The Court: Alone? A. Yes.

The Court: Mr. Williams didn't go with you?

A. He went back to the hotel, but he didn't go to bed.

The Court: All right.

Q. By Mr. Davis: After you went to bed, what?

A. Mr. Williams called me about 11:00 o'clock, and I got up.

The Court: You mean he went out of the hotel and left you in the hotel?

A. Yes, he walked around.

The Court: You said Mr. Williams called you?

A. I mean I was asleep, and he called me.

Q. By Mr. Davis: He came to your room and called you?

A. Yes, he came to my room and called me.

Q. And what happened?

The Court: Weren't you living in the same room? [32]

A. Yes, sir.

The Court: You mean he was in the room and woke you up? Is that what you mean by saying he called you?

A. Yes, sir.

Q. By Mr. Davis: Then what happened after he woke you up?

A. I got up and dressed.

Q. Where did you go?

A. We started over to Mr. and Mrs. Brown's; we were going over there.

(Testimony of Elizabeth J. Williams)

Q. Tell us everything that happened. Did anything happen on the way over to the Browns?

A. We walked to Browns, from the hotel, and there is when the hold-up is supposed to have occurred.

Q. Did the hold-up occur? A. No, sir.

Q. Did you stop there about two blocks from the hotel? A. Yes.

Q. Did you have any discussion? A. Yes.

Q. What was the discussion?

A. About the diamonds, that we should rush up to Mr. and Mrs. Brown's, and tell them we had been held up.

Q. What did you do? A. That is what we did.

Q. Did you rush to the Brown's house?

A. Yes, sir. [33]

Q. And go in? A. Yes, we did.

Q. And tell them you had been held up?

A. I told them we had been held up.

Q. Did you go to the police station? A. Yes.

Q. Who went with you?

A. Mr. and Mrs. Brown.

Q. Did you report to the police that there was a hold-up? A. Yes, sir.

Q. Did you make the report, or did Mr. Williams?

A. He did the talking.

Q. Did they question you at all? A. No, sir.

Q. Then what happened in the police station?

A. They just took down the report.

Q. Right after you reported to the police, did you ever go back after that to the police station?

A. I think Mr. Williams went back early the next morning.

Q. You didn't? A. No, I didn't.



(Testimony of Elizabeth J. Williams)

Q. Was there any hold-up or robbery or any jewel theft in Calexico on December 31, 1939?

A. No, sir. [34]

Q. What did Mr. Williams say to the Browns when you went in?

A. He says, "We have just been held up by a tall man and a short man."

Q. Did he tell what he had lost? A. Yes, sir.

Q. Did you say anything to the Browns?

A. I don't recall saying anything.

Q. Then when did you come back to Los Angeles?

A. The following day.

Q. That would be January 1, 1940? A. Yes.

Q. New Year's Day? A. Yes, sir.

The Court: You said you had some conversation with your husband before you left Los Angeles about the trip to Mexico. What was supposed to happen?

A. A robbery.

The Court: That was before you left Los Angeles?

A. Yes.

The Court: What was said? Whose idea was it? Was it your idea?

A. No. It was Mr. Williams'. He wanted the money to play the market.

Q. What did he say to you?

A. He came home and told me that he wanted to collect [35] the money on the diamonds, because he needed it in the market.

Q. What did you say?

A. Well, I don't recall just exactly what I said.

Q. Well, the substance of what you said? Nobody remembers exactly what they said, or very seldom, anyway.

(Testimony of Elizabeth J. Williams)

A. We just talked, and he said he needed the money, and that if the market went up he would pay it back, he would make it right with the insurance company.

The Court: When did this idea come out about the robbery? Did he say he had it all planned?

A. He had been talking about it a couple of weeks.

The Court: He had mentioned it to you before?

A. Yes, sir.

The Court: When did he first suggest it to you?

A. One night at Burbank he said, "This would be a good place for a hold-up."

The Court: Anything else? A. I don't recall.

The Court: Why did you think he was talking about a hold-up of your jewelry when he said, "This would be a good place for a hold-up"?

A. That was the only thing we had that he could collect money on.

The Court: When he said, "This would be a good place for a hold-up," what made you think he meant a fake hold-up? Had he said anything about it? [36]

A. Yes, he talked about—

The Court: What did he say?

A. Your Honor, he needed money in the market, and he said we could get four thousand and some dollars on my rings and his rings.

The Court: Yes. And what?

A. Well, he mentioned the Callexico trip, and that is what we went down there for.

The Court: What did you say to him about it and what did he say to you? Did you say anything before you left about having a fake hold-up in Callexico?

A. Yes, we talked about it.

The Court: What did you say and what did he say?

(Testimony of Elizabeth J. Williams)

A. We talked about the possibility of making the trip, and he said that, as an attorney, he could get us out of it. That is about it.

The Court: What did he say about having a hold-up down there?

A. He had planned on having the hold-up on the way to Mr. and Mrs. Brown's house.

The Court: From the hotel? A. Yes, sir.

The Court: That is what he said before you left?

A. Yes, sir.

The Court: Didn't you discuss it at all?

A. Yes, I suppose we did. [37]

The Court: Didn't you have any ideas about how to have a hold-up?

A. No, I didn't have any. He did most of the talking, and I just—

The Court: You didn't question him? I haven't been married to him, and you were his wife at the time, and I am trying to find out what your conversation was.

A. Your Honor, I know it was wrong.

The Court: I am not talking about whether it was wrong. All I want to know is what he said to you and what you said to him.

A. Before we went to Calexico he had lunch down town, and he came home and asked me if I had ever been to Calexico, and I said yes, that I had, and he said, "We are going down," and I had been ill, and, as I told you, that is what we went down for.

The Court: Is that what he told you? A. Yes.

The Court: What did he say?

A. That we were going to go down there and collect the money on the diamonds and going to have a fake hold-up.

(Testimony of Elizabeth J. Williams)

The Court: Did you ask him how he was going to stage this fake hold-up? A. Yes.

The Court: And what did he say?

A. He said he would have a story about it. [38]

The Court: I think probably it might be appropriate to have a short recess.

(Short recess.)

Q. By Mr. Davis: Mrs. Williams, you say this matter of having a fake hold-up had been discussed for some time before you went to Calexico? A. Yes.

Q. The purchase of this ring at the Chinese store for \$1.95 or \$2.95, that ring, did that figure in the discussion about the fake robbery? A. Yes.

Q. State what was said about it by him and what was said by you?

A. He said most people didn't know a diamond, and he got it to substitute for my engagement ring.

Q. Was it explained that you should wear it to Calexico? A. Yes.

Q. Will you tell us where that store was where you bought it?

A. It was on the south side of Hollywood Boulevard. I don't know what block.

Q. Was any disposition made of these jewels and watches that are mentioned in the policy before you went to Calexico? A. Yes, there was. [39]

Q. Before you went to Calexico what did you do with the rings and watches and bracelet?

A. Mr. Williams took two pieces of board about that long (indicating), and—

The Court: The record will show that the witness is indicating a distance.

(Testimony of Elizabeth J. Williams)

Mr. Davis: Go ahead.

The Court: Two pieces of board about that long?

A. Yes—2x4s, and he chiseled a hole out of the middle of each board.

The Court: And then what?

A. He put the diamonds in a handkerchief and put them in there, and put plaster of paris on top of them to hold them in.

Mr. Penney: I didn't hear her.

Mr. Davis: Speak a little louder, please.

The Witness: May I have a drink of water?

The Court: Yes, you surely may.

Q. By Mr. Davis: Where did he get the boards, do you know?

A. From an unfinished room off of our dressing room.

Q. In your house? A. Yes, on La Sombra.

Q. After he had done the chiseling and put the plaster of paris on it, what did he do?

A. He put two nails in it, one on each end of the [40] board.

Q. Then what did he do with the result?

A. He put them in the unfinished room that I was speaking of, off of my dressing room.

Q. Were there any other boards in there?

A. It is an unfinished room, and little pieces of board were left back there.

Q. Did you see him put them there?

A. I was in bed, but I knew what he was doing.

Q. Did he tell you where he had put them?

A. Yes, sir.

Q. Were they in that unfinished room off the dressing room when you left Los Angeles to go to Calexico?

A. They were.

(Testimony of Elizabeth J. Williams)

Q. After you had come back to Los Angeles on January 1, 1940, was anything said—you came back on January 1, 1940? A. Yes.

Q. Was anything said about what he was going to do from then on about any insurance claim?

A. Yes. He put in a claim.

Q. Did he tell you he was going to? A. Yes.

Q. Did you go to the insurance office, any insurance office, with reference to this matter?

A. No, I didn't. [41]

Q. Did he tell you what he had done? A. Yes.

Q. Did he tell you he had gone to Toplis & Harding?

A. Yes, sir.

Q. And that Toplis & Harding were adjusters for the insurance company? A. Yes, sir.

Q. Did he tell you that he reported the loss as a robbery? A. Yes.

Q. Did he tell you what he had told the insurance company about how the robbery happened?

A. I had heard him tell it to the police, so I suppose he told them the same.

Q. Did he tell you that he told the same story to Toplis & Harding that he told the police?

A. Yes, sir.

Mr. Penney: Will the witness keep her voice up, please?

The Witness: I will try.

Q. By Mr. Davis: Did Mr. Williams bring any documents to you to be signed? A. Yes, sir.

Mr. Davis: I would like to have these two documents marked for identification.

The Court: They will be marked Plaintiff's Exhibits 5 and 6. They are claims? [42]



(Testimony of Elizabeth J. Williams)

Mr. Davis: They are proofs of loss, yes.

The Court: Two of them?

Mr. Davis: Two proofs of loss. I call attention to the fact that the documents are marked Plaintiff's Exhibits 1 and 2. These were evidently used in the deposition of Sydney Williams, and for some reason didn't get in, so we might just as well strike out that marking. There are two separate policies. Plaintiff's Exhibit 5 for identification purports to be a sworn statement of proof of loss under policy SPF 303653. Exhibit 6 for identification purports to be a sworn statement of proof of loss under policy IMJ 67001. They are both directed to the Continental Insurance Company.

The Court: And both are signed by both parties?

Mr. Davis: Both signed by both parties.

The Court: Both defendants?

Mr. Davis: Yes, your Honor.

Q. By Mr. Davis: Mrs. Williams, I am going to hand you first Plaintiff's Exhibit No. 5 for identification, and will ask you if that is a document which you signed?

A. Yes, it is.

Q. And that is your signature? A. Yes, sir.

Q. Do you know whether or not the other signature is that of Mr. Williams? A. It is. [43]

Q. I also hand you Plaintiff's Exhibit No. 6 for identification, and ask you if the signature appearing at the bottom is your signature? A. Yes, it is.

Q. And the other signature is that of Sydney M. Williams? A. Yes, sir.

Q. Where were you when you signed these two documents? A. I was at home.

Q. Did you go out or go before a notary?

A. No, I didn't.

(Testimony of Elizabeth J. Williams)

Q. What did you do with them after you signed them? A. Gave them to Mr. Williams.

Mr. Davis: Do you want to stipulate that these were presented to the insurance company?

Mr. Penney: Yes. I will stipulate that they were presented to the insurance company, and, acting upon those proofs of loss, which were presented, payment was made.

Mr. Davis: I will offer the two documents as Plaintiff's Exhibits 5 and 6.

The Court: Admitted.

[PLAINTIFF'S EXHIBIT NO. 5]

Policy Number	Amount of Policy
SPF 303653	\$8,000.00
Agency at	Expiration
Los Angeles, Calif.	September 1st, 1942

SWORN STATEMENT

in

PROOF OF LOSS

to the

CONTINENTAL INSURANCE COMPANY

By Your Policy of Insurance Above Described, You Insured Sydney M. Williams and Elizabeth J. Williams according to the terms and conditions contained therein, the below mentioned property against loss from the following causes:

Property Insured Personal Property

Against Loss from all risks as per the above numbered policy form.

(Plaintiff's Exhibit No. 5)

A holdup occurred in the City of Calexico, Calif. on the 31st day of December 1939, about the hour of 10:30 o'clock P. M., which, upon the best of our knowledge and belief, was caused as follows: On the above date, while we were walking on a public sidewalk in the above City, an armed bandit demanded that we give him the property listed on this Proof of Loss, as well as property insured under Continental Insurance Company Policy IMJ 67001. Efforts toward recovery were without success.

The actual cash value of the property described by aforesaid policy, the actual amount of loss or damage, the total insurance thereon at the time of said loss and damage as shown by annexed schedule, and the amount claimed under this policy are as follows:

Cash Value	Whole Loss	Whole Insurance	Amount Named in This Policy	Amount Claimed Under This Policy
\$8,000.00	\$521.00	\$8,000.00	\$8,000.00	\$300.00

¶

We Hereby Make Claim Upon the Insurers Hereunder in the Sum of \$300.00 in Full and Final Settlement of  
and

Loss or Damage Referred to and Hereby Authorize Payment to Nil Except as noted below the property described belonged at the time of said loss to us and no other person or persons had any interest therein; no assignment or transfer, or incumbrance of said property has been made and no change in the title, use, or possession of said property has occurred since the issuance of said policy, except No exceptions In consideration of the payment to be

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made hereunder we hereby assign and transfer to the said

(Plaintiff's Exhibit No. 5)

Insurers each and all claims and demands against any person, persons, corporation or property, arising from or connected with such loss or damage, (and the said Company is subrogated in the place of and to the claims and demands of the undersigned against said person, persons, corporation or property in the premises), to the extent of the amount above named; and agree to immediately notify Toplis and Harding, Inc. (for account of the Underwriters) in case of any recovery of the property for which

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claim is being made hereunder. We also agree to turn over to said Toplis and Harding, Inc. for account of the Insurers, any such recovery which may be made, or reimburse said Toplis and Harding, Inc. to the extent of the payment for such property which may be recovered. The said loss was not caused by design or procurement on our part; nothing has been done by or with our privity or consent to violate the conditions of this policy, or render it void, no articles are mentioned herein or in annexed schedules, but such as were interested in the loss and insured under this policy, and belonged to us at the time of said loss; no property saved has been in any manner concealed, and no attempt to deceive the said Insurers as to the extent of said loss has in any manner been made.

Special Conditions .....

Any other information that may be required will be furnished upon request, and considered a part of this proof.

It is expressly understood and agreed that the furnishing of this blank to the Assured or the preparing of Proofs by an adjuster, or any agent of the Insurers

(Plaintiff's Exhibit No. 5)

named in the policy is not a waiver of any rights of said Insurers.

Witness our hand at Los Angeles this 19th day of February 1940.

SYDNEY M. WILLIAMS

ELIZABETH J. WILLIAMS

Signature of Assured

County of Los Angeles

State of California—s.s.

Personally appeared before me, the day and date above written Sydney M. and Elizabeth J. Williams signer of the foregoing statements, who made solemn oath to the truth of same, and that no material fact is withheld of which said Insurers should be advised.

PEARL E. BLEWETT (Seal)

Notary Public.

Notary Public in and for the County of

Los Angeles, State of California.

My Commission Expires Feb. 26, 1940.

Statement of Loss

Loss of:

One diamond friendship ring, large center with fourteen small round stones set in platinum—\$300.00

One wrist watch, Gruen Curvex, yellow gold case, gold disk and numerals, brown leather band—\$125.00

Policy Limit \$250.00

Cash Money—\$96.00

Policy Limit 50.00

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Amount of Claim \$300.00

TOPLIS AND HARDING, Inc.

By .....

(Plaintiff's Exhibit No. 5)

Claim No. LA 4-40 B

## SWORN STATEMENT

in

PROOF OF LOSS

to the

CONTINENTAL INSURANCE COMPANY

Insured Sydney M. Williams and Elizabeth J. Williams  
Agency Los Angeles

Policy No. SPF 303653

Amount of Policy.....\$8,000.00

Amount Claimed .....\$ 300.00

Amount Paid .....\$ 300.00

Adjusting Expense .....\$ .....

Date of Loss December 31, 1939.

TOPLIS AND HARDING, Inc.

International Adjusters

Established 1790

610 So. Broadway

Los Angeles

No.....

Case No. 2738-PH. Continental vs. Williams. Plfs.  
Exhibit No. 5. Date Dec. 12, 1944. No 5 in evidence.  
Clerk, U. S. District Court, Sou. Dist. of Calif. J. M.  
Horn, Deputy Clerk.

[Endorsed]: Filed May 4, 1945. Paul P. O'Brien,  
Clerk.



## [PLAINTIFF'S EXHIBIT NO. 6]

Policy Number	Amount of Policy
IMJ 67001	\$3,950.00
Agency at	Expiration
Los Angeles, Calif.	June 2nd, 1940

## SWORN STATEMENT

in

## PROOF OF LOSS

to the

## CONTINENTAL INSURANCE COMPANY

By Your Policy of Insurance Above Described, You Insured Sydney M. Williams and Elizabeth J. Williams according to the terms and conditions contained therein, the below mentioned property against loss from the following causes:

Property Insured Jewelry and Furs  
Against Loss from all risks as per the above numbered policy form.

A holdup occurred in the City of Calexico, Calif. on the 31st day of December 1939, about the hour of 10:30 o'clock P. M., which, upon the best of our knowledge and belief, was caused as follows: On the above date, while we were walking on a public sidewalk in the above City, an armed bandit demanded that we give him the property listed on this Proof of Loss, as well as property insured under Continental Insurance Company Policy SPF 303653. Efforts toward recovery were without success.

The actual cash value of the property described by aforesaid policy, the actual amount of loss or damage, the total insurance thereon at the time of said loss and damage as shown by annexed schedule, and the amount claimed under this policy are as follows:

## (Plaintiff's Exhibit No. 6)

Cash Value	Whole Loss	Whole Insurance	Amount Named in This Policy	Amount Claimed Under This Policy
\$3,950.00	\$3,950.00	\$3,950.00	\$3,950.00	\$3,950.00

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We Hereby Make Claim Upon the Insurers Hereunder in the Sum of \$3950.00 in Full and Final Settlement of  
and

Loss or Damage Referred to and Hereby Authorize Payment to Nil Except as noted below the property described belonged at the time of said loss to us and no other person or persons had any interest therein; no assignment or transfer, or incumbrance of said property has been made and no change in the title, use, or possession of said property has occurred since the issuance of said policy, except No exceptions In consideration of the payment to be

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made hereunder we hereby assign and transfer to the said Insurers each and all claims and demands against any person, persons, corporation or property, arising from or connected with such loss or damage, (and the said Company is subrogated in the place of and to the claims and demands of the undersigned against said person, persons, corporation or property in the premises), to the extent of the amount above named; and agree to immediately notify Toplis and Harding, Inc. (for account of the Underwriters) in case of any recovery of the property for which

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claim is being made hereunder. We also agree to turn over to said Toplis and Harding, Inc. for account of the

(Plaintiff's Exhibit No. 6)

Insurers, any such recovery which may be made, or reimburse said Toplis and Harding, Inc. to the extent of the payment for such property which may be recovered. The said holdup was not caused by design or procurement on our part; nothing has been done by or with our privity or consent to violate the conditions of this policy, or render it void, no articles are mentioned herein or in annexed schedules, but such as were interested in the loss and insured under this policy, and belonged to us at the time of said loss; no property saved has been in any manner concealed, and no attempt to deceive the said Insurers as to the extent of said loss has in any manner been made.

Special Conditions .....

Any other information that may be required will be furnished upon request, and considered a part of this proof.

It is expressly understood and agreed that the furnishing of this blank to the Assured or the preparing of Proofs by an adjuster, or any agent of the Insurers named in the policy is not a waiver of any rights of said Insurers.

Witness our hand at Los Angeles this 19th day of February 1940.

SYDNEY M. WILLIAMS

ELIZABETH J. WILLIAMS

Signature of Assured

(Plaintiff's Exhibit No. 6)

County of Los Angeles

State of California—s.s.

Personally appeared before me, the day and date above written Sydney M. Williams & Elizabeth J. Williams signer of the foregoing statements, who made solemn oath to the truth of same, and that no material fact is withheld of which said Insurers should be advised.

PEARL E. BLEWETT (Seal)

Notary Public.

Notary Public in and for the County of  
Los Angeles, State of California.

My Commission Expires Feb. 26, 1940.

## Statement of Loss

## Loss of:

Item No. 1—One platinum diamond watch with diamond bracelet attachment containing 84 diamonds and two baguettes	\$ 350.00
Item No. 4—One diamond emerald bracelet set in platinum with one marquise center and 74 full cut diamonds, weight approx. 5 cts.	900.00
Item No. 5—One platinum diamond engagement ring, center stone weight 3 cts., also containing 8 baguette and 22 round diamonds	1800.00
Item No. 6—One gent's diamond ring measuring scant 2 ct. center	900.00
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Amount of Claim	\$3950.00

TOPLIS AND HARDING, Inc.

By R. REYNOLDS

(Plaintiff's Exhibit No. 6)

Claim No. LA 4-40 A

SWORN STATEMENT

in

PROOF OF LOSS

to the

CONTINENTAL INSURANCE COMPANY

Insured Sydney M. Williams and Elizabeth J. Williams

Agency Los Angeles

Policy No. IMJ 67001

Amount of Policy.....\$3,950.00

Amount Claimed .....\$3,950.00

Amount Paid .....\$3,950.00

Adjusting Expense . .....\$ .....

Date of Loss December 31, 1939

TOPLIS AND HARDING, Inc.

International Adjusters

Established 1790

610 So. Broadway

Los Angeles

No.....

Received Mar. 4, 1940. R. R. Manion.

Case No. 2738-PH. Continental vs. Williams. Plfs.  
Exhibit No. 6. Date Dec. 12, 1944 No. 6 in evidence.  
Clerk, U. S. District Court, Sou. Dist. of Calif. J. M.  
Horn, Deputy Clerk.

[Endorsed]: Filed May 4, 1945. Paul P. O'Brien,  
Clerk.

(Testimony of Elizabeth J. Williams)

Q. By Mr. Davis: Mrs. Williams, do you know what Mr. Williams did with those documents?

The Court: Do you know Pearl Blewett?

A. No, sir.

The Court: Did you ever meet her? [44]

A. Not that I know of. I don't recall meeting her.

The Court: Do you know a notary public by the name of Pearl Blewett? A. No, sir.

The Court: All right. Did you meet her or any notary public on or about the 19th day of February, 1940? A. No, I didn't.

The Court: Very well.

Q. By Mr. Davis: Did Mr. Williams tell you what he did with those documents after you signed them?

A. Yes, he did.

Q. What did he say he did with them? Did he tell you he gave them to the insurance company or the insurance company adjuster? A. Oh, yes.

Q. I don't know whether I asked you this or not. Did you ever meet or talk with any insurance adjuster or any representative of the Continental Insurance Company with reference to this loss prior to the time the loss was paid? A. No, sir.

Q. Did you ever talk with Nate Horowitz before the loss was paid? A. No.

Q. You knew that the insurance company subsequently, or on or about, or between the 2nd and the 8th day of March, 1940, paid the loss claimed for under these two proofs of [45] loss, did you? A. Yes.

Q. They paid the sum of \$3,950 under policy IMJ 67001, and the sum of \$300 under policy No. SPF 303653? You know that they paid those in those amounts? A. Yes.



(Testimony of Elizabeth J. Williams)

Q. And that was paid by draft? A. Yes, sir.

Q. And you endorsed the draft? A. Yes.

Q. Both drafts? A. Yes.

Q. It was paid by both drafts? A. Yes, sir.

Q. And you endorsed them both? A. Yes.

Q. And gave them to Mr. Williams?

A. Yes, sir.

Q. Do you know what he did with them?

A. He deposited them in the bank.

Q. In what bank? A. The California Bank.

Q. Do you know what became of the money?

A. He used it in the stock market.

Q. Following the payment of this loss in March, 1940, did you ever see the items we have been discussing again, the [46] items scheduled in that list you have there? A. Yes, sir.

Q. Just tell what happened after that. First, did they remain up in that attic room for any length of time?

The Court: She said an unfinished room.

Q. By Mr. Davis: Was this an attic room?

A. Yes, it was an attic room.

The Court: Was it an attic room in an upper story?

A. Yes, sir.

Q. By Mr. Davis: Did they remain there for any length of time after the alleged robbery and after the payment?

A. Yes. They remained there until the latter part of May or the first of June.

Q. Of 1940? A. 1940.

Q. How did you know they were there?

A. Well, he put them there, and then he took them out again.

(Testimony of Elizabeth J. Williams)

The Court: That is when he took them out; is that what you mean?           A. Yes.

Q. By Mr. Davis: You knew they were there, because they hadn't been disturbed until he took them out the latter part of May or the first of June, 1940?

A. Yes, sir.

Q. Have you any way of fixing the approximate date [47] that they were taken out?

A. It was not long before—it was, I imagine, a month before I went east on a trip.

Q. When did you go east?

A. The latter part of June.

Q. The latter part of June, 1940?           A. Yes.

Q. Was anything said by him to you or by you to him about taking the jewels out of this unfinished room?

A. Mr. Williams and I had separated—

The Court: When?           A. The 8th of May.

The Court: 1940?           A. 1940.

The Court: All right. Go ahead with what you said and talked about then.

A. And he was living in an apartment hotel, and I was living at the house, and he had just opened his law office again.

The Court: Had he closed it?           A. Yes.

The Court: When?

A. The first part of 1939. And he came up to the house and said we were going to have the diamonds broken up.

Q. By Mr. Davis: Did he state why?

A. No, I don't think so. [48]

Q. To dispose of them or sell the stones, or anything of that kind?

(Testimony of Elizabeth J. Williams)

A. I don't know what reason he had for breaking them up.

The Court: He didn't say?      A. No.

Q. By Mr. Davis: He said they had to be broken up?      A. Yes.

Q. What was done? How were they to be broken up, or who would break them up?

A. He didn't know anybody, and he asked about Mr. Leitch's laboratory in San Diego.

Q. Who was Mr. Leitch?

A. He was a dental technician.

Q. And he was in business, operating a laboratory, in San Diego, at that time?      A. Yes, sir.

Q. Mr. Leitch was a friend of yours?

A. Yes. I had known Mr. Leitch several years.

Q. Had Mr. Williams known Mr. Leitch?

A. He had met him two or three times.

Q. And you and Leitch were friends?      A. Yes.

Q. Just what was said about him, about having him break these up?

A. He asked me if I thought Mr. Leitch could do it, [49] and I said I thought he could.

Q. Did you go to San Diego?      A. Yes, we did.

Q. Just tell us about your trip.

A. He came up to the house and got the diamonds and—

Q. He took them out of this—

A. Out of the unfinished room in the attic.

Q. Were they still in the board?      A. Yes, sir.

Q. And he brought them out?

A. Yes, sir. And we went down on the boat—

Q. Where was the boat?      A. In Balboa.

Q. Was it a big boat?      A. No, a small boat.

(Testimony of Elizabeth J. Williams)

Q. A cruiser?

A. A 32-foot boat. And he separated the boards down on the boat and took the diamonds out, and we took them to San Diego.

Q. When he separated the boards and took the diamonds out, what did he do with the boards?

A. He put them in the car.

Q. What happened then?

A. After we had had the diamonds—after we left Mr. Leitch's laboratory—

Q. On your way down, I mean, where were the boards? [50]

A. In the back of the car.

Q. And then you went to Mr. Leitch's laboratory?

A. Yes.

Q. Where was that laboratory located?

A. On University Avenue.

Q. In San Diego?

A. Yes, sir.

Q. What sort of a conveyance did you go to San Diego in?

A. We went in a Dodge coupe.

Q. Who drove?

A. Mr. Williams.

The Court: From where?

A. From Balboa.

Q. By Mr. Davis: You were on the boat?

A. No, sir. We went to the boat.

Q. Do you know what kind of tools were used?

A. He had a hammer and a screwdriver and a small iron chisel, I guess.

Q. What did Mr. Williams do when you got to San Diego?

A. He parked the car around the corner from University Avenue.

Q. On University Avenue?

A. No—just off of University Avenue.

Q. Do you know the name of the street?

(Testimony of Elizabeth J. Williams)

A. No, I don't. [51]

Q. And what did you do?

A. He sat in the car.

Q. What did you do?

A. I took the diamonds up to Mr. Leitch's and asked him to break the diamonds up for us.

The Court: When Mr. Williams took the diamonds out of the board, you mean he took out the jewels then?

A. No.

The Court: So when you took them up to the dentist they were still in the settings?

A. Yes.

The Court: In the same condition as described in the list?

A. Yes, sir.

Q. By Mr. Davis: Did you take and present to Mr. Leitch all of the articles that are mentioned in that list that you have before you, from which you have been reading?

A. Yes, sir.

Q. Do you understand me? Have you got your list there before you?

A. Yes, I have.

Q. Which of the items that are mentioned there did you take to Mr. Leitch?

A. The watch and the wedding—no—the friendship ring—I had on my wedding ring.

The Court: That wasn't put in the board? [52]

A. No, sir. And No. 3 and No. 4 and No. 5 and No. 6.

Q. By Mr. Davis: You took 3, 4, 5 and 6?

A. I took 1, 3, 4, 5 and 6.

Q. Did he break up the platinum diamond watch?

A. No, nor the friendship ring.

Q. He didn't break up No. 3 or No. 1?

A. That is right. I asked him if he could break them up for us.

(Testimony of Elizabeth J. Williams)

The Court: Had he ever done anything like that before for you?      A. No, sir.

The Court: Why did he do it?      A. I asked him.

The Court: Did he ask you why you wanted them broken up?      A. No, sir.

The Court: Did he say anything at all about it?

A. No. I just asked him to.

The Court: Did you tell him why you wanted them broken up?      A. No.

The Court: Did he say he couldn't break up 1 and 3?

A. No. Mr. Williams didn't want them broken up.

The Court: But you took them up to Leitch's office just the same?      A. Yes, sir. [53]

Q. By Mr. Davis: Did Mr. Leitch break them up?

A. Yes, he did.

Q. Did you see him break them up?

A. Yes, I did.

The Court: You stayed there, then?      A. Yes.

Q. By Mr. Davis: About how long were you up there while he was breaking them up?

A. Oh, I should judge two or two and a half hours.

Mr. Penney: How long?

A. I should judge two or two and a half hours.

Q. By Mr. Davis: Did you see what he used to break them up?      A. Yes, sir.

Q. What did he use?

A. Emery wheels—the wheels that he used in his work.

Q. Did you see anyone else present while Mr. Leitch was breaking them up?      A. Yes, sir.

Q. Who was present?



(Testimony of Elizabeth J. Williams)

A. A man that was working for Mr. Leitch, and Mr. Jones, and later Mrs. Jones came in. Mr. Jones came up later. He wasn't there when I arrived.

The Court: Mr. and Mrs. Jones, and another man?

A. And Mr. Leitch. [54]

Q. By Mr. Davis: You knew Mr. and Mrs. Jones?

A. Yes, sir.

Q. But you didn't know them very well?

A. No.

Q. After the jewels were broken up what became of the stones? A. I put them in my handkerchief.

Q. What did you do with them?

A. And Art walked down to the car with me.

The Court: Mr. Leitch? A. Yes, Mr. Leitch.

Q. By Mr. Davis: Was Mr. Williams there when Mr. Leitch went down to the car? A. Yes, sir.

Q. And did Mr. Williams and Mr. Leitch speak to each other?

A. Yes; they shook hands, and Mr. Williams thanked Mr. Leitch for breaking them up.

The Court: Did you take the settings back?

A. No.

The Court: You left those with Mr. Leitch?

A. Yes, sir.

The Court: Then what did you do—come back to Los Angeles? A. Yes, sir.

Q. By Mr. Davis: What was done with the stones? [55]

A. Just before we got to La Jolla I threw them out of the car.

Q. The stones?

A. No. I thought you said the boards.

(Testimony of Elizabeth J. Williams)

Q. What did you do with the boards, first?

A. Just before we got into La Jolla I threw them out of the car.

Q. In the country or in the city?

A. It was out in the country.

Q. Then what did you do with the stones when you left San Diego and you had them in your handkerchief—did you?

A. Yes, sir.

Q. In your handkerchief?

A. Yes, sir.

Q. Where did you put them? Where did you carry them?

A. I carried them in my purse back to Los Angeles.

Q. Did you carry them in your purse all the way back to Los Angeles?

A. Yes.

Q. When you got to Los Angeles what happened?

A. We put them in a small green tin box.

Q. A document box?

A. Yes, sir.

Q. Were they still wrapped up in your handkerchief?

A. Yes, sir.

Q. Did you put them in the box or did Mr. Williams?

[56] A. Mr. Williams did.

Q. What became of the box? What did he do with the box, do you know?

A. He put it back in the same room that the diamonds had been in before.

Q. In the unfinished room?

A. Yes, sir.

Q. Did you ever see those diamonds after that?

A. Yes, I did.

Q. How many times after that did you see them?

The Court: When did you next see them?

A. After I came back from the east.

Q. By Mr. Davis: Were they still in the box?

A. All but the watch and the ring.

(Testimony of Elizabeth J. Williams)

Q. What became of the ring and of this watch?

A. I had moved them to a different room.

Q. This watch and ring which weren't broken up?

A. Yes, sir.

Q. Where was the wedding ring? A. I wore it.

Q. You wore it all the time? A. Yes, sir.

Q. And you had moved these others into another room, and the loose stones were still in the box?

A. Yes, sir.

Q. Did you see them again after that? [57]

A. Yes, sir, I saw them.

Q. Did you ever show them to anybody?

A. Yes.

Q. Who did you show them to?

A. I showed them to Mrs. Berrenberg.

Q. Who was she?

A. She was a friend of mine.

Q. Do you know where she lives today?

A. Well, I knew up until two years ago. I don't know where she lives right now.

Q. How old a woman is she?

A. I should judge around 50.

Q. When did you show them to her?

A. Soon after I came back from the east—I imagine in August.

Q. You got them out of the box? A. Yes.

Q. What did you do with them after you showed them to her? A. Put them back.

Q. Then did you see them after that?

A. No, I didn't.

The Court: You never saw them again?

A. No.

Q. By Mr. Davis: Do you know what became of them? A. No, I don't. [58]

(Testimony of Elizabeth J. Williams)

Q. You say you and Mr. Williams separated in May?

A. Yes.

Q. About when did you come back from the east?

A. The last part of July, 1940.

Q. Did Mr. Williams have access to your house there during the period of separation? A. Yes, sir.

Q. I believe you said in October the divorce started, the divorce action? A. I believe that is right.

Q. And Mr. Williams had a key to the house?

A. Yes, sir.

Q. Was he in the house during the time between the time you separated and the divorce action?

A. Yes, at times.

Q. Many times? A. Yes.

Q. I understand you had a contested divorce?

A. Yes, sir.

Q. Do you know when the insurance company was first advised of this fake robbery? A. Yes, sir.

Q. Did you tell anybody about it?

A. I told Mr. Taylor.

Q. Do you know whether or not Mr. Taylor advised us, that is, the insurance company? [59]

A. Yes, he did.

Q. And, as a result, you were interviewed by myself and Mr. McAnally? A. Yes, sir.

Q. And you told the same story you are telling here now? A. Yes, sir.

Q. At the time you were in Calxico you were wearing your wedding ring? A. Yes, sir.

Q. This \$1.95 diamond ring, or the ring—

A. Yes, sir.

Q. And that is the only ring you really were wearing? A. Yes, sir.

(Testimony of Elizabeth J. Williams)

The Court: What became of that \$1.95 ring? What did you do with it?

A. We disposed of it on the way over to Mr. and Mrs. Brown's.

The Court: What do you mean you disposed of it?

A. Threw it away.

The Court: Broke it up? A. No, sir.

The Court: Just threw it away? A. Yes.

The Court: And continued to wear your engagement ring, did you? [60] A. My wedding ring.

The Court: All right.

Mr. Davis: I think you may inquire. You may cross examine. [61]

\* \* \* \* \*

Q. By Mr. Davis: Mrs. Williams, you testified this morning that there were two pieces of jewelry, the friendship ring and the watch with the bracelet attachment, that you had taken out of this box with the other jewelry and put in another room in the house? A. Yes, sir.

Q. What did you do with that jewelry, those two pieces? A. I put them up in the maid's room.

Q. And later what did you do with them?

A. I gave them,—

Q. I have them in my possession. How did I get them? A. I gave them to Mr. Taylor.

Q. Do you know whether or not he gave them to me? [62] A. Yes, sir.

Q. Did he give them to me in your presence?

A. Yes, sir.

Q. And with your consent? A. Yes, sir.

Q. I will hand you a watch, with a bracelet attachment, and ask you if that is the item referred to as item No. 1 in the policy and in the copy of the list which I give you for your assistance. Exhibit 1 for identification?

Mr. Davis: As long as we have used this, I think we had better offer it in evidence, your Honor.

The Court: All right. It is admitted as Plaintiff's Exhibit No. 1 in evidence.

[PLAINTIFF'S EXHIBIT NO. 1.]

Item No.	Description of Items	Amount of Insurance
1.	One Platinum Diamond Watch with diamond bracelet attachment containing 84 Dias. & 2 Baguettes .....	\$ 350.00
2.	One Platinum Diamond Wedding Ring with 11 Diamonds .....	50.00
3.	One Diamond friendship ring, large center with 14 smaller round stones set in platinum	300.00
4.	One Diamond & Emerald Bracelet set in Platinum with 1 Marquise center & 74 full cut dias. weighing approx. 5 carat.....	900.00
5.	One Plat. Diam. engagement ring center stone weighing approx. 3 carat also containing 8 baguettes & 22 round diamonds.....	1800.00
6.	One gents Diam. Ring measuring scant 2 carat center .....	900.00
		<hr/> \$4300.00

Appraised by E. M. Lipetz—6/23/39—Los Angeles, Calif.

Case No. 2738-PH. Continental vs. Williams. Plfs. Exhibit No. 1. Date Dec. 12, 1944, No. 1 in evidence. Clerk, U. S. District Court, Sou. Dist. of Calif.; J. M. Horn, Deputy Clerk.

[Endorsed]: Filed May 4, 1945. Paul P. O'Brien, Clerk.



(Testimony of Elizabeth J. Williams)

Mr. Davis: Do you understand my question?

The Court: No. 1 in evidence is the list of items.

A. Yes. This is the one.

Q. By Mr. Davis: Is that the watch described there?

A. Yes, sir.

Q. Now I will hand you another piece of jewelry and ask you if that is the piece of jewelry that is described as item No. 3 in Exhibit 1 and in the policy?

A. Yes, it is.

Mr. Davis: I will offer those two items in evidence.

The Court: Do you want them in evidence?

Mr. Penney: I have no objection.

The Court: You have no objection? [63]

Mr. Penney: None whatever.

The Court: The point that I am making is that, if you don't offer them in evidence, you can leave them for the purposes of the trial, and then can return them. They will be admitted in evidence for the time being.

Mr. Davis: And we will be responsible for them. They belong to her, but the plaintiff is responsible for them.

The Court: Very well.

Mr. Taylor: Are they admitted under one number, your Honor?

The Clerk: The watch is admitted as No. 7.

The Court: And the ring is No. 8. That is No. 2.

The Witness: I have No. 3 on mine.

The Court: One diamond friendship ring?

The Witness: Yes, sir.

The Court: Is that what you call it?

The Witness: Yes.

Mr. Davis: Mr. Penney may cross examine. I have three other witnesses here, and one of the witnesses has a business of his own.

The Court: You say one of the witnesses is what?

Mr. Davis: I say one of them is running a business of his own, and one of the other witnesses is employed in an aircraft factory. And I would like to put them on out of order, if there is no objection.

The Court: There is no objection on my part, if [64] counsel has no objection.

Mr. Penney: I don't want to cross examine her until she has signed the deposition which was taken Sunday. I would like to have her read that deposition and sign it.

Mr. Davis: You mean you don't want to cross examine her at all?

Mr. Penney: No, not until she reads this deposition.

The Court: If you have no objection, counsel can bring these other witnesses on out of order, so that they can be released.

Mr. Penney: I am taken by surprise by a lot of the testimony, and would like to have those witnesses remain right here in this courtroom.

The Court: If you have no objection to this testimony being taken out of order—

Mr. Penney: No, your Honor.

The Court: You have concluded your direct?

Mr. Davis: Yes, I have concluded the direct.

The Court: You may stand down.

The Clerk: The ring is Exhibit No. 8 and is admitted in evidence?

The Court: Yes; the ring is No. 8, and is admitted in evidence. [65]

\* \* \* \* \*

ARTHUR STANLEY LEITCH,

called as a witness on behalf of plaintiff, being first duly sworn, testified as follows:

The Clerk: State your name.

A. Arthur Stanley Leitch.

The Court: And your address?

A. 4025 North Hempstead Circle, San Diego.

Direct Examination

Q. By Mr. Davis: That is San Diego?

A. Yes, sir.

Q. What is your business, Mr. Leitch?

A. I have a dental laboratory in San Diego.

Q. How long have you been in business?

A. 13 years.

Q. In San Diego, California? A. Yes, sir.

Q. And that is a laboratory where you do work for dentists? A. That is right.

Q. Do you know Mrs. Williams? A. I do.

Q. How long have you known her?

A. About 10 years.

Q. Do you know Sydney Williams? A. I do.

Q. How long have you known him? [66]

A. Oh, possibly—well, I can't say for sure. I don't know the date.

The Court: As long as you have known her?

A. No, sir.

Q. By Mr. Davis: Did you meet him before or after they were married? A. After they were married.

Q. Directing your attention to an occasion, a time in the late spring of 1940, do you recall seeing Mrs. Williams and Mr. Williams in San Diego, possibly the latter part of May, or from the middle of May to the first part of June? A. Yes, sir, about that time.

(Testimony of Arthur Stanley Leitch)

Q. Where did you see Mrs. Williams?

A. She came to my laboratory.

Q. Where is your laboratory located?

A. Thirtieth and University.

Q. Did you have any conversation with her?

A. Yes.

Q. To what did the conversation relate?

Mr. Penny: This testimony is binding upon her. It is not binding on Mr. Williams.

The Court: Yes.

Mr. Penney: And I have no objection to her testifying, with that understanding. They were conversations with her, but not in his presence.

Mr. Davis: We are entitled to the testimony. [67]

The Court: Yes, you are entitled to the testimony, but at the present time I don't know whether sufficient foundation has been laid or not. Her testimony was that she went to the office of the witness at the instance and request of her husband, Mr. Williams. In any event, the testimony will be admitted subject to your right to argue a motion to strike.

Q. By Mr. Davis: State the substance of the conversation had at that time.

A. She asked me if I could do something for her, and produced some jewels which she asked me if I could take the stones out of.

Q. Do you remember what the jewels were?

A. Well, I can't outline all of them. I remember that the ones that I was able to take the stones out of, or did, because she wanted me to, were two rings and a bracelet.

Q. Was anybody present at that time?

(Testimony of Arthur Stanley Leitch)

A. Yes. I had three men in my office, employees, and they were present, and while I was doing it my sister came in and she was present.

Q. Is your sister the wife of one of the employees?

A. Yes.

Q. Mr. Jones?

A. Mr. Jones is one of my employees.

Q. And the other employees who were there at that time, where are they now? [68]

A. One of them is in the Navy. He is a dentist now.

The Court: What is his name?

A. James Frame. And the other one is Lewis Lloyd. He is employed in another laboratory in San Diego at present.

Q. By Mr. Davis: Those were the only ones that were there?

A. Other than Mr. Jones. Mr. Jones was there.

Q. Was anything said as to why these jewels should be broken up?

A. I think I recall the conversation on my asking why they were, and I believe the explanation was at the time that they needed money, and that they could obtain more money from the stones out of the settings than in the settings.

Q. That is what she said?

A. That is as close as I can recall what was said.

Q. Did you take the stones out of these three items that you mentioned?

A. Yes, I did.

Q. Tell us what you did.

A. I don't know anything about stones or jewelry. So I thought I could take them out with what we call side cutters or wire cutters that I had in the laboratory, and I found the bracelet was soft enough to take the little

(Testimony of Arthur Stanley Leitch)

stones out of it, but the bracelet had a couple of green stones in it, and I couldn't take those out with the pliers, so I had some high speed instruments that we use to handle chrome [69] metal, and I was able to cut around the margins of the stones, to get them out that way.

The Court: What about the ring stones? Did you have any difficulty with those?

A. No. I used a lathe on those.

Q. By Mr. Davis: You say you did use a lathe on the ring settings? A. Yes, sir.

Q. What happened to the mountings after you took the stones out?

A. The ones that I had cut, of course, were pretty well broken up, and the ones I had used the pliers on were bent, and, knowing the scrap metal we use in the laboratory, it didn't have any great value in it, and, as I recall now, Mrs. Williams mentioned keeping it, and we attempted to melt it down, so that I could throw it in the scrap kettles that we have in the place, and all of it melted down but the man's ring, and that I don't think was platinum; I think it was gold, because we couldn't melt it down with an acetylene torch, and we put everything in the scrap kettle.

Q. Then what did you do with it?

A. When we turned in our metal, I turned it in to the refiners, and by the time the refiners got through there was a lot of metal there that was non-precious metal. It surely wasn't gold.

Q. Directing your attention to Plaintiff's Exhibit 1, [70] which I think is laying there in front of you, directing your attention first to item No. 4, will you state whether or not that description describes a piece of jewelry which you cut up?



(Testimony of Arthur Stanley Leitch)

A. I believe the description fits, as close as I can recall it. I do recognize the emeralds, the little flat stones that were with the diamonds.

Q. Do you recall the description of it?

A. Yes.

Q. Do you recall the description of No. 5, the item which you cut up? A. I believe so.

Q. What do you recall as to the description of the article?

A. Well, it had many little stones, I don't recall how many, but as to the larger stone or the good-sized diamond, I do remember that.

Q. What about item No. 6?

A. It being a man's ring, I remember there was a man's ring. That is the one I mentioned that wouldn't melt down.

Q. Was that the one you mentioned that was set in harder metal, harder than the others? A. Yes.

Q. During the time that you were removing these stones, did Mrs. Williams leave the laboratory? [71]

A. Yes, she did. She went downstairs during the time I was taking care of this.

Q. Did she state why?

A. She told me she was going down to see Mr. Williams, and I asked her to bring him up, and when she came back she said he wouldn't come up. I remember, at the time she had been down, she brought up some drinks, coca-cola, for those that were there, and then she stayed until I completed it.

Q. After the jewels were removed from the settings what became of them?

A. She took them and put them in a handkerchief or some paper, one of the two.

(Testimony of Arthur Stanley Leitch)

Q. Then did she leave?

A. She left at that time, and I went downstairs with her to the car, where Mr. Williams was, and spoke to him for a moment, and they went on their way.

Q. What was said by Mr. Williams to you at that time, and by you to him? What conversation did you have?

A. I don't believe there was a lot of conversation. I remember we shook hands through the car, and he made some mention of my doing it; I believe he thanked me for doing it.

Q. Then you went back?

A. I went back to the office.

Q. And they went on in the car? A. Yes, sir.

Q. When was this matter next brought to your attention, [72] about cutting up this jewelry?

A. A couple of years ago, when you and some other gentlemen came down to San Diego to ask me about these descriptions.

Q. Did you talk to Mrs. Williams about us coming down? Mr. McAnally was the man, wasn't he?

A. I believe that was the name.

Q. An adjuster for the Continental Insurance Company? A. Yes.

Q. Had you talked to Mrs. Williams about that?

A. I had talked to her that morning, a short time before I met you.

Q. What did she say?

A. She mentioned that something had come up about these jewels, and a couple of men were coming down to ask me about the descriptions of them.

Q. At that time did you know what had come up?

A. No, sir.

(Testimony of Arthur Stanley Leitch)

Q. You knew it was something in relation to them?

A. I knew it was something in relation to the jewels. I didn't know what it was about.

Q. When did you first learn just exactly what it was all about?      A. This morning. [73]

\*      \*      \*      \*      \*      \*      \*      \*

Cross Examination

Q. By Mr. Penney: Mr. Leitch, how long have you known Mrs. Williams?

A. Approximately ten years, thereabouts.

Q. Where were you living when you first met her?

A. On 32nd Street, I believe.

Q. San Diego?      A. Yes, sir.

Q. Where was she living at that time?

A. I wouldn't know the address. I knew she lived here in Los Angeles.

Q. Did she live in San Diego at any time?

A. Yes, sir; she lived with us for a period of time after that.

Q. By "us," who did you mean?

A. I had my sisters come to live with me, and she came to live with us at that time.

Q. How many sisters did you have live with you at that time?      A. Two.

Q. And how long did she live with you?

A. A matter of months. I couldn't say how many.

Q. When did she leave there?

A. I couldn't tell you the date.

Q. The approximate date? Can you give me the approximate date? [74]

A. I am afraid I couldn't, no.

(Testimony of Arthur Stanley Leitch)

Q. Can you give me the year?

A. I couldn't do that.

The Court: Can you figure it out?

A. It was the year of the San Diego Fair, and I don't even know what year that was, to be sure.

Q. By Mr. Penney: Can you give me within four years of when the San Diego Fair was?

A. I couldn't give you any of them at all.

The Court: You don't mean the 1915 Fair?

A. No. It was around the nineteen thirties.

Q. By Mr. Penney: Do you know whether or not she left there in 1930 or 1935?

A. I would say it was closer to 1935.

Q. Than it was to 1930? A. Yes.

Q. Then when did you next see her?

A. I believe I saw her at different times in Los Angeles here.

Q. How often did you see her in Los Angeles?

A. Oh, probably, maybe three or four times, and maybe a half dozen times.

Q. Between 1935 and 1940 you saw her how many times?

A. I would say approximately half a dozen times. I don't know exactly.

Q. When did you first meet Mr. Williams? [75]

A. The first time I met Mr. Williams was after Mrs. Williams and he were married.

Q. Do you know when they were married?

A. No, sir.

Q. Do you know whether or not they were married in 1936, when you were up here to visit her any time?

A. Yes, they were, because that was when I met Mr. Williams first.

(Testimony of Arthur Stanley Leitch)

Q. Sometime between 1935 and 1940?

A. Yes, sir.

Q. Can you give me within a year of when they were married?

A. I am afraid I couldn't. I know when I met him the first time, but I don't know the date or the time.

Q. When did you meet Mr. Williams the first time?

A. I met him at his business. They had a dress or garment manufacturing place, and I was up here at the time, and we can associate the date, because they just had had a fire at the establishment.

Q. Can you give me the date? A. No, I can't.

Q. You don't know whether it was 1938 or 1940?

A. I don't think it was as late as 1940.

Q. You don't know whether it was in 1938?

A. I wouldn't swear to that, no.

Q. Can you give me the month when you met him?

[76] A. No, definitely I couldn't.

Q. You don't know whether it was May or December?

A. No, I don't.

Q. You told Mr. Davis that you had only met Mr. Williams once?

A. Up to what time?

Q. Until the time that you met him in San Diego.

A. No, sir.

Q. Had you met Mr. Williams twice?

A. Twice.

Q. Where did you meet him on the second occasion?

A. He was handling a case for my sister in a little court outside of Los Angeles at the time.

Q. Were you present then?

A. I was. I drove up for the case.

Q. Do you recall the year in which he handled the case for your sister?

A. I don't think I can.

(Testimony of Arthur Stanley Leitch)

Q. That was a drunk driving case, wasn't it?

A. That is right.

Q. And you had employed him for the purpose of assisting her?

A. He handled it. I don't know whether I employed him.

Q. You don't know whether that was 1936 or 1940?

A. I know it wasn't 1940 or 1936. It was in that [77] period of time.

Q. But you do know that Mr. Williams was down there with Mrs. Williams in the latter part of May or the first part of June, 1940?

A. I had things brought to my attention to make me associate it with this, yes.

Q. You had no occasion, from 1940 to 1942, two years later, to recall the date, had you?

A. Nothing at all.

Q. You had had no conversation at all with Mrs. Williams, had you? A. No.

Q. And sometime in 1942 Mrs. Williams called you; is that right? A. That is right.

Q. She was in San Diego at the time?

A. That is right.

Q. What did she tell you on that occasion?

A. She told me that something had come up about the jewelry, and she was having two men come over to ask me about the descriptions.

Q. Was that all she said? A. That is all.

Q. Can you describe the jewelry that Mrs. Williams brought to you without this exhibit in front of you?

A. Without refreshing my mind from that, I couldn't [78] describe it very well, other than being a couple of rings and a bracelet and another bracelet that I didn't take the stones out of.



(Testimony of Arthur Stanley Leitch)

Q. Do you know the difference between platinum and white gold? A. I think so. I handle platinum.

Q. Do you know the difference between diamonds and sapphires? A. Only in color.

Q. I said sapphires. I was thinking of emeralds. Do you know the difference between an emerald and a diamond? A. The color.

Q. What is the difference?

A. An emerald is green, I think.

Q. Which one is green?

A. I think it is the emerald, I believe.

Q. Are you sure about that? A. I believe so.

Q. I will ask you to look at Exhibit No. 7 and state whether or not those stones in there are diamonds or sapphires. Do you know?

A. No. I would judge they are diamonds.

Q. Do you know whether or not that is white gold or platinum? A. I would say it is platinum.

Q. You stated, I believe, Mr. Leitch, that you didn't [79] know anything at all about jewelry?

A. As jewelry, yes.

Q. Mrs. Williams told you that these stones would have a greater value out of their mountings than they would in the mountings?

A. That is what the conversation was at the time, yes.

Q. You didn't think you were doing anything dishonest, did you?

A. No, I had no reason to think I was. I thought it was their own business, what they wanted to do with it.

Q. Mr. Williams was not with Mrs. Williams, was he, in the office? A. No.

(Testimony of Arthur Stanley Leitch)

Q. What time did she arrive at your office?

A. Sometime in the early afternoon.

Q. What time?

A. I couldn't state the hour. It was late afternoon when they left. I did fool with them for a period of time, possibly a couple of hours.

Q. Did you have any emery wheels in there?

A. Yes, definitely.

Q. Did you cut this jewelry up with the use of emery wheels? A. Yes, carborundum disks.

Q. You didn't know whether or not at that time you were cutting diamonds or sapphires, did you? [80]

A. If they were white stones, I presumed they were diamonds.

Q. They could have been glass? A. Yes.

Q. And the green stones that you took out might or might not have been precious stones?

A. That is right.

Q. And you know, as a matter of fact, that the people whom you dealt with on precious metals objected to some of the flux in the metals, don't you?

A. That is right.

Q. When you came down to the car, there was no one on the outside of the car, was there? A. No.

Q. Whoever was there was on the inside of the car?

A. That is right.

Q. And it was dark when you came down, wasn't it?

A. It wasn't so dark that I couldn't detect who I was talking to.

Q. Was it dusk? A. Just about dusk.

Q. Was this a coupe or a sedan?

A. I thought it was a sedan.

(Testimony of Arthur Stanley Leitch)

Q. What kind of a sedan was it?

A. Knowing cars, I know it was a Dodge.

Q. A Dodge sedan? [81] A. Yes.

Q. Light or dark color?

A. I don't recall the color. It seems to me it was probably maroon.

Q. A maroon sedan? A. Yes.

Q. A maroon Dodge sedan?

A. Yes. It may have been a coupe. I thought it was a sedan.

Q. Didn't Mrs. Williams come down to the car and say, "I want you to say hello to Mr. Williams," or something to that effect?

A. I knew I was going down to meet him.

Q. You had been up with Mrs. Williams in the laboratory for how many hours?

A. A couple or three hours, probably more than that.

Q. More than three hours?

A. It may have been. I didn't work on it continually. I had other business to take care of. I didn't work on it continually.

Q. Could the person in that car have been someone else other than Mr. Williams? A. I don't think so.

Q. Could you be mistaken about the person you saw in that sedan?

A. Anybody could be mistaken, but I am quite positive [82] it was Mr. Williams.

Q. What, if anything, did you tell Mr. Davis as to the description of the articles that you broke up?

A. I don't quite follow your question. What do you mean, what did I tell him?

Q. You had to describe to Mr. Davis some articles, didn't you? A. I knew there were rings.

(Testimony of Arthur Stanley Leitch)

Q. What did you tell Mr. Davis?

A. I told him how I took the stones out of them.

Q. How many stones did you tell him you took out?

A. I don't know—a number.

Q. Did you tell him approximately how many?

A. No.

Q. Did you tell him what kind of stones they were?

A. Some were very small, probably chips, and a couple or three larger ones.

Q. How large were the large ones—did you tell him?

A. I didn't tell him.

Q. You had never broken up any stones before from settings, had you?      A. No.

Q. What did Mr. Davis ask you? What was the first thing he said to you, and what did you say to Mr. Davis?

A. He was introduced to me first, and then he told me this other man that was with him was an investigator for the [83] insurance company, and that they had come down to have me give a description and tell them about the pieces I had taken the stones out of, and asked me about when it happened, and how many pieces there were.

Q. When did you tell him it happened?

Mr. Davis: I don't believe that is cross examination, what he told me. If he is going into conversations with me, it isn't proper cross examination.

The Court: Yes, it is, because you asked him if you didn't go down and see him.

Mr. Davis: Well, maybe I shouldn't have asked him that, then.

The Witness: What was your question?

Mr. Penney: Will you read the question, please?

(Testimony of Arthur Stanley Leitch)

(Question read by the reporter.)

A. I don't believe I could set an exact date on the time it happened, until I start associating things to set a time. My employees would probably be of more assistance in setting the time than I could be, offhand.

Q. By Mr. Penney: When did you tell Mr. Davis, when he asked you the question as to when it happened, when did you tell him you had taken these stones out?

A. I don't know as I told him a definite time.

Q. He asked you, didn't he?

A. He probably did.

Q. And you told him you couldn't tell him? [84]

A. I think so.

Q. Did he ask you to describe the rings?

A. Yes, he did.

Q. What did you tell him?

A. I told him I couldn't describe them. I knew there were many stones I had taken out, but I couldn't tell him the size or how many there were.

Q. Nor could you tell him the pieces at that time, could you?

A. No, I don't know as I could, the exact pieces. There were many pieces.

Q. Did you tell him you could tell him at that time whether or not they were diamonds or any other kind of stones?

A. I don't think I told him that, no.

Q. Can you recall anything else that he asked you in that conversation?

A. Yes. They asked me the identity of all the pieces of jewelry, and I told them I didn't know exactly the identity of all of them, because I hadn't paid any particular attention.

(Testimony of Arthur Stanley Leitch)

Q. They gave you then the description of the pieces of jewelry?      A. A description, yes.

Q. And Mr. Davis or the gentleman with him asked you if that would refresh your recollection, to go over the [85] description?      A. That is right.

Q. And you did that?      A. I did.

Q. And that refreshed your recollection?

A. Yes.

Q. How long was Mr. Davis and this other gentleman down there with you?

A. Oh, a couple or three hours, probably.

Q. Were you discussing this matter the entire time?

A. Well, they weren't's discussing it with me the entire time. They talked to Mr. Jones and Mrs. Jones and another employee in my laboratory at the time.

Q. So your testimony about the time that Mr. Williams came down there had been refreshed by the recollection of other witnesses; isn't that a fact?

A. Yes, refreshed a lot.

Q. Did you see Mrs. Williams at that time?

A. Yes.

Q. Did she come up there with these gentlemen?

A. She came up before the gentlemen came up.

Q. In person?      A. Yes.

Q. Did she tell you why these gentlemen were coming up to see you?

A. Yes. She said they wanted some information about [86] the jewels.

Q. Is that all she said?

A. That is all she had to say.

Q. Just came up and made that one statement and left?      A. She didn't leave. She stayed there.



(Testimony of Arthur Stanley Leitch)

Q. Was she there when Mr. Davis and this other gentleman came up?      A. Yes.

Q. Did she remain there the entire afternoon?

A. They weren't there the entire afternoon.

Q. They were there some three hours?      A. Yes.

Q. And she remained?      A. Yes.

Q. Did she participate in the conversation?

A. Some.

Q. What specifically did she say?

Mr. Davis: I will object to that as not proper cross examination, what she said.

Mr. Penney: I would like to have the entire conversation.

The Court: I think so.

Q. By Mr. Penney: What, if anything, did she tell you?

A. We talked about the occasion of when she came down and the jewels she brought, and the ones she wanted me to take the stones out of and, of course, it all refreshed my [87] mind. There was no occasion for me to remember it.

Q. She also told you at that time, did she not, that these came out of a fake hold-up?

A. No, she did not.

Q. What, if anything, did these gentlemen say about it?

A. They didn't even tell me what they were getting the information for. I said I would like to know, but I figured that it was their business.

Q. You weren't curious enough for that?

A. Sure, I was curious, but I didn't ask.

(Testimony of Arthur Stanley Leitch)

Q. You stated that you didn't know anything at all about the subject matter of this lawsuit in court today?

A. That is right. I had my own idea, but I didn't have any information on it.

Q. Had you seen Mrs. Williams from the time Mr. Davis came down there in 1942 until today?

A. No. I didn't hear from her during that period until about a few days ago.

Q. She called you at that time? A. Yes.

Q. And you proceeded to come in today?

A. Yes.

Q. Did Mrs. Williams tell you over the telephone what she wanted you up here for?

A. She said the case was coming up in court, and she would like to have me describe the jewels and tell about them [88] again.

Q. And is that all that was said over the telephone?

A. She told me Mr. Davis would call me, and would I come up, and I said I would rather not have to come, the way business was, but if I had to I would.

Q. Had you seen Mr. Davis from 1942 until the time you came to court today? A. No, sir.

Q. Had you see Mr. Bledsoe?

A. I never met Mr. Bledsoe before.

Q. Did you see the gentleman that came down in 1942 with Mr. Davis after that occasion? A. No, sir.

Q. And the only conversation you had with Mrs. Williams was over the telephone? A. Yes, sir.

Mr. Penney: That is all.

(Testimony of Arthur Stanley Leitch)

Redirect Examination

Q. By Mr. Davis: Mr. Leitch, directing your attention to the occasion when Mr. McAnally and I came there— Let me ask you: From your laboratory, did you not, in company with Mrs. Williams, myself and Mr. McAnally, the investigator, go down to the home of the two Joneses? A. Yes.

Mr. Penney: I object to this as leading and suggestive.

Mr. Davis: It is just refreshing his recollection on [89] that one point.

Mr. Penney: I object to it. He is going to lead his own witness.

The Court: Well, he has led him, and the answer is in.

Q. By Mr. Davis: Mr. Leitch, on that occasion was Mr. Lloyd interviewed in your presence by Mr. McAnally and myself? A. Yes.

Q. Mr. Leitch, referring to the question of whether or not you dismantled glass or precious stones, diamonds, did you apply any heat to any of the sets?

A. To the metal, not to the stones.

Q. Did you apply the heat after the stones were removed? A. Yes, to the ring.

Q. What is your best judgment as to the character of those stones you removed from these three mountings?

Mr. Penney: Just a moment. He is no expert, and I object.

Q. By Mr. Davis: If you know. I will withdraw the question. I just wanted to know whether he could tell the difference.

The Court: He testified on cross-examination that he cannot. [90]

## LOLITA LEITCH JONES,

called as a witness on behalf of plaintiff, being first duly sworn, testified as follows:

The Clerk: State your name.

A. Mrs. Lolita Leitch Jones.

The Clerk: Where do you reside?

A. 2820 Thirtieth Street.

The Court: San Diego? A. Yes.

## Direct Examination

Q. By Mr. Davis: Mrs. Jones, you are the sister of Mr. Leitch, who just testified? A. That is right.

Q. How long have you known Mrs. Williams?

A. Well, I wouldn't testify any particular date. It seems like I have known Betty all my life.

Q. All your life? A. Most of the time. [91]

Q. Where did you first get acquainted with her?

A. In San Diego, years ago.

Q. Did you go to school together? A. No.

Q. Have you seen much of her in recent years?

A. Very little.

Q. You lived together at one time? A. Yes.

Q. Do you recall when it was?

A. I should say it was approximately the beginning of—well, I wouldn't want to say. I have lived in Los Angeles, and it was about September, 1933, when I first went down to San Diego to live with my brother Arthur.

Q. And she roomed with you at that time?

A. It was during that time I met Betty through my big sister.

The Court: She came to San Diego about that time?

A. Sometime around that time. I wouldn't want to state, because there was no reason why I should remember that particular date.

(Testimony of Lolita Leitch Jones)

Q. By Mr. Davis: Directing your attention to a time in the late spring of 1940, do you recall seeing Betty Williams at that time?

Mr. Penney: To which I am going to object as leading and suggestive.

The Court: Objection overruled. In the late spring [92] of 1940?

A. I wouldn't want to say any particular date. There was no reason why I should remember the date. It was very shortly after I was married to Mr. Jones.

The Court: When was that? A. July 11, 1939.

Q. By Mr. Davis: I wasn't referring to any particular time, but did you have any particular occasion in mind, when I asked about 1940?

A. Yes, I had. It was a habit of mine at that time—my husband was working for my brother, and if I had nothing else to do I would walk up there from my home and visit in the afternoon with both of them, and on this particular afternoon I went up there and Betty was there.

Q. Do you know who else was there?

A. My husband and my brother, and Lieutenant James Keith, or Fred.

The Court: His name is different now?

A. At that time, through adoption, or I don't know exactly how it was, and it has been legally changed by the court since to "Frank." I knew him then as Jimmy Keith.

The Court: He wasn't a lieutenant then?

A. No; he was just a laboratory assistant.

Q. By Mr. Davis: And who else?

A. My husband, my brother and myself.

(Testimony of Lolita Leitch Jones)

Q. What, if anything, occurred there on that occasion [93] when Mrs. Williams was there, when you saw her?

A. I was glad to see her, for one thing, and I noticed that she had a handkerchief in her hand with some stones in it. The size of the stones or the values I have no idea of.

Q. Did you look at them?

A. Just a passing glance; but I didn't question her at all.

Q. Tell about the size—I don't mean in carats—but were they large stones or small stones or what were they? How would you describe them?

A. With a person holding a handkerchief like this, you don't intend to be too curious, and you really can't say the size.

The Court: Were they as big as marbles?

A. Well, hardly. They were small chip size. They weren't very large.

Q. By Mr. Davis: Were there any colored stones?

A. I don't know. If there was any in there I probably would have seen them. I didn't notice.

Q. Were there any stones larger than the others?

A. Yes.

Q. About how many? A. That I couldn't say.

Q. Did you hear Mrs. Williams say anything about Mr. Williams during that day?

A. I had never met Mr. Williams, but during the few [94] minutes I was there Mrs. Williams or Betty left the room to go downstairs to see Mr. Williams.

Q. Did she say she was going to see Mr. Williams?

A. Yes.

Q. Did she come back before you left?

A. Yes, just before I left.



(Testimony of Lolita Leitch Jones)

Q. Do you recall any particular incident regarding the time she came back?

A. No, I couldn't state.

The Court: Any incident when she came back?

A. She brought coca-colas. That is usually a habit of a person that goes downstairs, to bring coca-colas.

Q. By Mr. Davis: Did you hear Mr. Leitch or Mrs. Williams say anything about bringing Mr. Williams up?

A. No, I didn't.

Q. You didn't hear that? A. No.

The Court: Did she bring Mr. Williams up?

A. No, Mr. Williams didn't come up while I was there. I only stayed a few minutes.

Q. By Mr. Davis: Subsequent to that was this matter of breaking up the—the matter of having these diamonds ever brought to your attention?

Mr. Penney: I object to that question. She didn't testify to anything about that.

Mr. Davis: Loose stones—I will call them stones.  
[95]

The Court: Do you know they were stones?

Q. By Mr. Davis: What would you call them, whatever she had in her handkerchief?

A. I would call them stones. I am not a jeweler.

Q. You wouldn't know whether they were diamonds or sapphires? A. No, I wouldn't.

\* \* \* \* \*

### Cross Examination.

Q. By Mr. Penney: Mrs. Jones, you have known Betty or Mrs. Williams for how many years?

A. I don't know how many years I have known Betty.

(Testimony of Lolita Leitch Jones)

Q. On this occasion when you met her in San Diego, how many years had it been prior to that time when you had seen her?

A. I couldn't say. I met Betty through my sister, who has known her for years; I don't know how long; I wouldn't want to commit myself. [96]

The Court: He asked how long prior to the time you saw her in the office that day you had seen her before.

A. I don't really recall.

The Court: You got married July 11, 1939. Had you seen her since you were married?

A. No, I hadn't seen Betty from the time I was married until the time I saw her at the laboratory.

Q. Prior to the time of your marriage how long had it been since you saw her?

A. Betty lived with us up until—well, in 1933 or 1934, and then I went to San Francisco and stayed there a couple of years, and then, of course, I hadn't seen Betty during—

Q. When you came down to San Diego, was Mr. Williams living with your brother and your other sister?

A. No, not at that time.

The Court: When you first went down there in 1933, or after you came back from San Francisco?

A. I don't recall if Betty, when I came down, if she was living with my brother and sister.

The Court: In 1933?

A. I don't recall. We had several of my sister's friends down off and on.

Q. By Mr. Penney: Then you went to San Francisco for a couple of years? A. Yes. [97]

Q. And then you came back? A. Yes.

(Testimony of Lolita Leitch Jones)

Q. Was Mrs Williams living in San Diego with your brother and sister at that time?

A. No, she wasn't.

Q. You were married in 1939?

A. That is right.

Q. When was the last time you had seen Mrs. Williams prior to the time of your marriage?

A. It was a matter of years.

Q. You had always been very friendly with her?

A. I am very fond of Betty.

Q. When you saw her on this occasion, which was shortly after your marriage, how long did you remain there with her?

A. In the office?

Q. Yes.

A. I stayed there not more than 15 or 20 minutes, not any longer than that.

Q. The only thing you can recall about this whole transaction was the fact that she had some stones in her handkerchief?

A. I can describe every piece of apparel she had on.

Q. I don't doubt that.

The Court: What did she have on—I mean outside?

A. I have always loved clothes, and I remember she [98] had on a lovely black coat, and it was when wedgies first came into style, and she had on a pair of red wedgies, and they were raised across the toe, and that entranced me very much. I liked those very much.

Q. Did you see any jewelry on her?

A. No, I didn't notice.

Q. Did you notice?

A. No, I didn't; I didn't notice, to tell you the truth.

(Testimony of Lolita Leitch Jones)

Q. You were married in July of 1939?

A. That is right.

Q. And you say this was soon after your marriage?

A. It was six months or so.

Q. Sometime within six months after you were married?  
A. Yes. [99]

\* \* \* \* \*

HUGH JAMES JONES,

called as a witness in behalf of plaintiff, being first duly sworn, testified as follows:

The Clerk: State your name.

A. Hugh James Jones.

The Clerk: And your address?

A. 2820 Thirtieth Street, San Diego.

Direct Examination.

Q. By Mr. Davis: You are the husband of the Mrs. Jones who just left the stand?

A. Yes, sir.

Q. You formerly worked for Mr. Leitch?

A. Yes.

Q. Where are you employed now?

A. Ryan Aeronautical Company, San Diego.

Q. How long have you been employed there?

A. A little better than four years. I first went to work at the Ryan Aeronautical Company October 31, 1940.

Q. And where were you working prior to the time you went to work for Ryan?

A. I was working for my brother-in-law in his dental laboratory in San Diego.

(Testimony of Hugh James Jones)

Q. Your brother-in-law, Mr. Leitch, who testified?

A. Yes.

Q. Do you know Mrs. Williams, Elizabeth Williams?

A. Yes, I do. [100]

Q. Do you recall the occasion of seeing Mrs. Williams in Mr. Leitch's laboratory?

A. Yes. She was there prior to my having left there on October 31st.

Q. Would you be able to fix the approximate date you saw her there?

A. As I best remember it, it was two or three months prior to the time I left, probably around May, the latter part of May, or June, sometime around in there.

Q. Will you just relate what you observed there on this occasion?

A. Well, on that particular day—

The Court: Is this merely cumulative?

Mr. Davis: Yes, your Honor, although he remembers a little more detail.

The Court: All right.

A. I think I had been downstairs buying some supplies, swabs and powders, that we use for cleaning dentures, materials of that type, and I don't just recall what it was; but when I came upstairs Betty was there.

Q. By Mr. Davis: You had known Betty before?

A. Yes, I had known Betty before.

Q. Did you see Mr. Leitch dismounting or breaking up any jewelry?

A. Yes.

Q. Did you examine the jewelry? [101]

A. No, I didn't pay any particular attention to it at first, because I thought it was merely some piece that was broken, and I saw that he was cutting them up, and

(Testimony of Hugh James Jones)

then there was one that—I don't recall especially—well, anyway, it goes around the wrist. I imagine you call it a bracelet. He was trying to get the stones out with a pair of side cutting pliers.

Q. You saw that? A. Yes.

Q. Did you examine the jewels closely?

A. No, I didn't examine them too closely. There was one that I examined after the jewel was out, the stone. It was a ring that was extremely hard, and I know we had a hard time cutting the metal in a lathe.

Q. Do you know the difference between glass and diamonds?

A. No; I am not a jeweler, and I don't.

Q. Did you hear any remarks made there at the time regarding Mr. Williams?

A. As I best recall, I think Mrs. Williams said she was going downstairs to see him, and then she came back up, and then later, if I recall correctly, she said she would like to have Art come down.

Q. Did you see what happened to these articles after Mr. Leitch had removed the stones?

A. Yes. She wrapped them up in a handkerchief or piece [102] of paper and carried them out with her.

Mr. Davis: I think that is all. You may cross-examine.

#### Cross Examination.

Q. By Mr. Penney: Mr. Jones, how long were you there that afternoon?

A. I was there all afternoon.

Q. Did your wife come up there that afternoon?

A. Oh, yes.



(Testimony of Hugh James Jones)

Q. When did she come up?

A. My wife was up there—I think she was up there before Betty came in. I am not sure.

Q. Did you leave with your wife that evening?

A. No. She went home before I did.

Q. Did you do anything at all in cutting up this jewelry?

A. No, sir. I was busy working.

Q. You stated a moment ago that "We had a hard time" with one of these pieces.

A. He had a hard time cutting it up, because of the hardness of the metal.

Q. But you had nothing at all to do with it?

A. No.

The Court: I understood that you testified that you tried to cut this ring.

A. We tried to melt it up.

The Court: You tried to melt it? [103]

A. Yes. I held the torch on it, the blow torch.

Q. By Mr. Penney: Do you know anything about the melting of silver?      A. No, I don't.

Q. Is that a hard metal?

A. That is a soft metal.

Q. How about gold? Is that a hard metal?

A. Gold is a soft metal.

Q. How about platinum?

A. Platinum is a soft metal, I guess. I don't know.

Q. Platinum, gold and silver are soft metals?

A. I would imagine they are.

The Court: What is a hard metal?

A. I would say stainless steel. That is what I am working with now.

(Testimony of Hugh James Jones)

Q. By Mr. Penney: Could you melt this one ring?

A. No, it wouldn't melt. [104]

\* \* \* \* \*

Mr. Penney: Will you take the stand, please, Mrs. Williams?

The Court: Is this cross-examination of the plaintiff's cross-examination, or are you calling this witness under the provisions of 43 (b)?

Mr. Penney: This is cross-examination on her cross-examination.

The Court: You then expect to be bound by her answers?

Mr. Penney: No, your Honor, we do not expect to be bound by her answers. It is cross-examination of the cross-examination. I certainly want to call her under 43 (b). She is an adverse party.

Mr. Davis: She is an adverse witness, but not an adverse party, and he may cross-examine on matters gone into by us only.

The Court: Section 43 (b) states, "and may be cross-examined by the adverse party only upon the subject matter of his examination in chief." That is cross-examination.

Mr. Penney: I think the court can appreciate my [105] position, as far as I am concerned. I want to have the opportunity of cross-examining this witness, and I certainly do not want to call her as my own witness.

The Court: I think under Rule 43 (b) you can certainly call her and cross-examine her on any issue that is material to the case, whether touched by the plaintiff's

cross-examination of her or not. I think it is equally clear that if you choose to cross-examine her now you are limited strictly and solely to the matters that were touched upon by the cross-examination by the plaintiff. I think if you proceed to cross-examine her now, that, in the event a motion to dismiss is made or a motion for non-suit, at the conclusion of the plaintiff's case—I am not indicating that one should be made or granted—but taking that into consideration, in the event you do make such a motion and cross-examine her now, I will be bound to take her testimony on this cross-examination of her by you into consideration and give it effect in favor of the plaintiff and against you, on a motion for non-suit.

Mr. Penney: Your Honor, I shall confine myself at this time solely to cross-examination on the matters that have been gone into by Mr. Davis.

The Court: Did I make myself clear on the latter matter?

Mr. Penney: Yes, your Honor.

The Court: Then on a motion for non-suit anything you [106] develop to your injury—in other words, if, at the conclusion of the cross-examination by you the plaintiff rests, and you make a motion for non-suit, I will then be compelled, under the rule, to give all inferences to her testimony against you and all presumptions against you and in favor of the plaintiff.

Mr. Penney: That is right.

The Court: All right. That is the only difference I see really between cross-examination on a cross-examination and a cross-examination under 43 (b).

Mr. Penney: I shall go into the things that have been testified to.

The Court: Very well. [107]

(Testimony of Hugh James Jones)

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Mr. Penney: I shall go into the things that have been testified to.

The Court: Very well. [107]

ELIZABETH J. WILLIAMS,

a witness heretofore duly sworn on behalf of the plaintiff,  
upon being recalled, testified as follows:

Cross Examination.

Q. By Mr. Penney: Mrs. Williams, when were you married to Mr. Williams? A. June 3, 1939.

Q. And a divorce action was brought against you by Mr. Williams in 1940, was it not? A. Yes, sir.

Q. And you testified under oath in the Superior Court of the County of Los Angeles in that case, did you not?

A. Yes, sir.

Q. And did you not at that time, while under oath, state, in substance or effect, that there was a robbery which occurred in Calexico on the 31st day of December, 1939, in which certain diamonds were taken from you and from Mr. Williams?

A. I said there was, and I—

Mr. Penney: Never mind. That is all. [108]

\* \* \* \* \*

Redirect Examination.

Q. By Mr. Davis: Do you recall what question was asked you in the divorce proceeding regarding this robbery?

The Court: Do you recall the identical question?

A. No.

Q. By Mr. Davis: Do you recall the substance of the question as asked you? A. It wasn't—

Mr. Penney: Answer that yes or no.

The Witness: The question again, please.

Q. By Mr. Davis: Do you recall the substance of any question that was asked you regarding the alleged robbery, when you were testifying in the divorce proceeding?

A. No, I don't remember it.



(Testimony of Elizabeth J. Williams)

Q. You don't remember the exact words?

A. No.

Q. Do you recall what you said? A. No.

Q. Now wait. Do you recall what you said, either in substance or exactly? A. No.

Q. In the divorce proceeding, regarding the robbery in Callexico? [110]

A. I don't remember.

Q. Why did you just now tell us that you did answer that there had been a robbery in Callexico?

Mr. Penney: I object as to why she did it.

Mr. Davis: She does not recall either what question was asked or what answer she gave. Why did you—

The Witness: Why did I say I did?

Mr. Penney: Just a moment.

The Court: Your objection is that it is not proper cross-examination?

Mr. Penney: I object on the ground that it is immaterial why she answered that question, as long as it has been answered. She testified that that was the way she testified under oath.

The Court: I think it is probably immaterial. I will let her answer, unless you have some particular showing to make as to why she testified.

Mr. Davis: Why does she say now that she so testified?

The Court: That is argument.

Q. By Mr. Davis: Let me ask you this question: Isn't it a fact, Mrs. Williams, that the question of whether or not there had been a bona fide robbery in Callexico in 1939, in December, 1939, was never asked or gone into in the divorce proceeding?

## SYDNEY M. WILLIAMS,

called by the plaintiff as a witness under the provisions of Section 43 (b) of the Rules of Civil Procedure, being first duly sworn, testified as follows:

The Clerk: Will you state your name?

A. Sydney M. Williams.

The Clerk: And your address?

A. Republic Studios, Studio City.

## Direct Examination.

Q. By Mr. Davis: You are one of the defendants in this case, Mr. Williams? A. Yes, sir.

Q. Mr. Williams, referring to the first policy here, covering specifically on jewelry, did you have an appraisal made?

A. I did. I first brought it up to Mr. Horowitz's office. [118]

Q. Who is Mr. Horowitz?

A. That is the insurance broker. Because I was under the impression that he would have it appraised. One of the reasons—

Q. Just a minute. You did have it appraised?

A. Yes, sir.

Q. Who appraised it? A. Mr. Lippert.

Q. At the time it was appraised, did you present it to him? A. Yes, sir.

Q. Where? A. In his office.

Q. Where was his office?

A. To the best of my recollection, it was some place on Fifth Street, or one of those jeweler's places, I think—the Metropolitan—I am not positive.

Q. Did you make any report of this robbery?

A. Yes.

(Testimony of Sydney M. Williams)

Q. Who did you report to first?

A. Mr. Horowitz, our agent. Mrs. Williams and myself went over there and told him what had happened.

Q. And what did he tell you to do?

A. He took us over to the adjuster, Toplis & Harding, and introduced us to Bob Reynolds, and Mrs. Williams and myself told Bob Reynolds the story at your office.

Q. The office of the Continental Insurance Company?

[119]

A. That is right. Toplis & Harding is the adjuster.

Q. Who did you see at Toplis & Harding?

A. Bob Reynolds.

Q. Did you see him personally? He is sitting there (indicating). A. Yes.

Q. Is that the man you talked to? A. Yes.

Q. Did you discuss this case with anybody else?

A. At Toplis & Harding?

Q. At Toplis & Harding.

A. No. Later Mr. Lewbel went up there with us.

Q. At the time you went up and reported this matter to Toplis & Harding and Mr. Reynolds, what did you tell him?

A. I told him we had been held up in Calexico, and gave him all the facts.

Q. Tell us briefly what you told him.

A. I told him we had gone to Calexico upon the invitation of Mr. and Mrs. Brown, and had gone down there on the 30th, and had spent the day with the Browns, and the next day Mr. and Mrs. Brown had invited us to a party at some Mexican official's home, and we had gone to the hotel to dress, and, after dressing, we were going over to the Browns' house, which is about two and a half

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Q. Tell us briefly what you told him.

A. I told him we had gone to Calexico upon the invitation of Mr. and Mrs. Brown, and had gone down there on the 30th, and had spent the day with the Browns, and the next day Mr. and Mrs. Brown had invited us to a party at some Mexican official's home, and we had gone to the hotel to dress, and, after dressing, we were going over to the Browns' house, which is about two and a half

(Testimony of Sydney M. Williams)

blocks from the hotel, and we were walking over to the Browns, and when we got about a block or a block and a half back of the hotel, [120] Betty and I were walking down the street, and I heard a voice in back of me say, "Hey Mister," and we turned around, and there were two men there. One was an American and had a full face, and the other chap was a Mexican, and he had a gun in his hand, and the American had his hand in his pocket. Whether there was a gun in it or not I don't know. He had his hand out like this. And the Mexican said, "Don't get excited. Nobody is going to get hurt. All we want is your money and jewelry." And immediately Betty said, "Don't argue with them, Honey; give they anything they want." And we started taking off our jewelry and watches. And I took off my ring and handed it to the man, and he said, "Give me your watch." And I took off my watch and gave it to him. And he said, "Now, I want your money," and I took out my wallet and took the bills out and handed it to him, and he looked at the bills and said, "Is that all you have got?" And I said, "Look for yourself," and he said, "All right. Don't turn around or move for five minutes. If you do, I will come back and get you." And about thirty seconds or a minute after that I heard this car start away fast, and it sounded to me like a Chevrolet. And I said, "Come on, Honey; let's go." And we ran all the way to the Browns, about a block and a half, and ran up to the door, and Lois came to the door, and we told her what had happened, and said, "Come on; let's go to the police station." And we got in the car and went to the police station, and we made a report to the [121] police there, and he got on the phone and called Calexico, called the sheriff's office, and put out a dragnet for them.



(Testimony of Sydney M. Williams)

Q. That is what you told Mr. Reynolds?

A. Yes. We told him the whole story. Then—I don't know—I will be glad to go on and tell you what happened after that. I don't remember whether I told Bob Reynolds what happened after that. The next day the Browns and myself went back to the police station, and they told us then that two men were operating in the vicinity and they hadn't been able to apprehend them yet. Then after that they picked up some suspects.

Q. That is what you told Mr. Reynolds?

A. Whether I told him what happened after that I have no recollection exactly.

Q. Did you tell Mr. Reynolds what you had lost?

A. Yes, I did.

Q. What did you tell him you had lost?

A. My diamond ring and my wrist watch, and \$96 in money, and Betty's diamond wrist watch and her diamond and emerald bracelet, and her ring she wore on her little finger, and a big diamond.

Q. Did you tell him what the diamond watch and bracelet attachment containing 84 diamonds and two baguettes had cost?

A. There was no discussion of that at all. He had the appraisal that was made, the appraisal at the time they [122] took it, and I would like to explain that appraisal, if I may.

Q. Very well.

A. At the time of the appraisal, when I took the diamonds to Mr. Lippert, a diamond importer, he asked me if I wanted the jewelry appraised at cost, at importer's price, wholesale price, or retail price, and he explained that under the policy I could have them insured for either one.

(Testimony of Sydney M. Williams)

Q. Who made that explanation?

A. Mr. Lippert. Mr. Horowitz told me to get an outside man to appraise it, that the company would not appraise it, but your man had looked at it.

Q. You say my man?

A. The Continental—I am sorry, Mr. Davis. I don't know the Continental Insurance executive who did it.

The Court: Were you present when the appraisals were submitted?

A. Yes, I was. He looked at them very thoroughly, and made the remark that they were the most beautiful diamonds he had ever seen.

Mr. Davis: I move to strike that.

The Court: It may be stricken.

The Witness: May I go on about the appraisal, sir?

The Court: I think he will ask you the questions.

Q. By Mr. Davis: You mentioned Mr. Lippert, you got Mr. Lippert to appraise the jewelry. Did he give you a [123] written appraisal of it?

A. Yes, he did, at import prices.

Q. When did you get the appraisal from Mr. Lippert, as to the date of the policy?

A. Mr. Davis, I couldn't tell you that. It was right around the date of the policy, and they had to have the appraisal before they wrote the policy.

Q. Isn't it a fact that the policy was written subject to the appraisal, and the appraisal came later?

A. I don't know that.

Q. You say you didn't tell Mr. Reynolds anything about where you got this jewelry or what it cost?

A. No, I did not.

(Testimony of Sydney M. Williams)

Q. None of the items?

A. He didn't ask me.

Q. Didn't he ask you what you paid for the one platinum diamond engagement ring, center stone weighing approximately 3 carat, also containing 8 baguettes and 22 round diamonds, and didn't you answer him that you paid \$3,000 for that ring?

A. No, sir.

Q. That is not a fact?

A. No, sir. As a matter of fact, I paid more than that for it.

Q. What is that?

A. I say, as a matter of fact, I paid more than that [124] for it.

Mr. Davis: I move to strike that last answer.

The Court: It may be stricken.

Q. By Mr. Davis: You understood my question? I asked you what you told Mr. Reynolds.

A. I have already answered it. I told you I did not tell him.

Q. Isn't it a fact that he asked you what you paid for the gent's diamond ring measuring scant 2 carat center, and you told him you paid \$375 for it?

A. No, sir.

Q. May I ask you what you did pay for that ring?

Mr. Penney: Your Honor, I am going to object to this examination, because they have paid the loss, according to their own statement, and I think they are precluded now.

The Court: It is a suit for fraud.

Mr. Penney: I realize that, your Honor.

The Court: Overruled.

(Testimony of Sydney M. Williams)

Q. By Mr. Davis: Let me ask you what you did pay for the one gent's diamond ring measuring scant 2 carat center.

A. I didn't pay anything for it in money, sir. I received it as a fee in a Wright Act case in 1928. I had it appraised by Mr. Laykin.

The Court: What item is that?

Mr. Davis: Item No. 6 on the schedule, your Honor.

The Court: What was the other item you were talking [125] about?

Mr. Davis: The other item was Item No. 5.

The Court: What was this question—what he told Mr. Reynolds, or what he paid for it?

Mr. Davis: What he actually paid for it.

A. That was for a Wright Act case in about 1928.

Q. By Mr. Davis: And you had that ring from 1928 to the date of this alleged robbery? A. Yes, sir.

Q. What did you pay for the platinum diamond watch with diamond bracelet attachment containing 84 diamonds and 2 baguettes?

The Court: What is that item?

Mr. Davis: Item No. 1, your Honor.

The Court: In Exhibit No. 1?

Mr. Davis: Yes, your Honor.

A. That I acquired at the same time as I acquired the— You are asking me about what?

Q. Item No. 1. A. The watch?

Q. Yes.

A. I acquired the watch at the same time I acquired the platinum diamond engagement ring listed as No. 5, in 1936, from one Max Rosenthal, who was a client of mine and was a diamond importer.

(Testimony of Sydney M. Williams)

Q. What did you pay him for that watch? [126]

The Court: Just a moment. I notice you called that No. 5. A. I have the list here.

The Court: I am a little confused on that. What was it you said you paid nothing for—item 6?

A. For item 6, I got that as a fee.

The Court: 1 gent's diamond ring measuring scant 2 carat center?

A. I paid nothing for that.

The Court: On No. 5, what was the—

A. No. 5 and No. 1 were acquired at the same time.

Q. By Mr. Davis: From Max Rosenthal?

A. From Max Rosenthal.

The Court: By purchase?

A. Yes and no, your Honor. I would like to explain it.

Q. By Mr. Davis: Very well.

A. I was Max's attorney in some very hotly contested divorce litigation, wherein his wife had tied up some of his funds and his diamonds and jewelry in our Superior Court. I was his attorney for several years without compensation and had loaned Max money to live on, because he didn't have the funds to live on. His money was tied up. And after the conclusion of the divorce case, when his property was divided up, he had these items, and he wanted me to cancel his obligation to me for the moneys I had loaned him and for [127] my legal services, and also wanted additional cash; he wanted \$1500 from me, and I offered him \$900 and the cancellation of the debt. I took the property over to Mr. Laykin, and he appraised the ring as worth \$2500 at retail, and the watch as worth retail \$750, and it seemed like an excellent deal to me, and

(Testimony of Sydney M. Williams)

I made the deal with him, cancelled what he owed me by way of my attorney's fees, and gave him \$900, and took the watch and the ring.

Q. By Mr. Davis: Referring to the platinum diamond wedding ring, you purchased that—that is item No. 2, platinum diamond wedding ring with 11 diamonds. I will withdraw that question. 1 diamond friendship ring, large center with 14 smaller round stones set in platinum. That is item No. 3. Did you purchase that?

A. Yes, I did.

Q. Where did you purchase that?

A. I purchased that from David Riskin.

Q. When?

A. Some time before we were married. I bought that for Betty as an engagement ring. I took her up to Mr. Riskin and bought it through Mr. Riskin. However, Mr. Riskin was acting as a broker, as I understood at the time, for some woman.

Q. You paid the money to him?

A. I paid \$500 for the ring. It was a check that was introduced in evidence. [128]

Q. The check that was introduced in evidence is the check that you paid for this ring?

A. For item No. 3 on this list.

Q. One diamond friendship ring?

A. That is right. It is item No. 3 on our list.

The Court: \$250?

A. No. That is a ring that has nothing to do with this. It was a \$500 check.

The Court: A \$500 check and \$250?

A. I paid Mr. Riskin \$500 for the ring.



(Testimony of Sydney M. Williams)

Q. By Mr. Davis: 1 diamond and emerald bracelet, item No. 4, set in platinum, with 1 Marquise center and 74 fullcut diamonds, weighing approximately 5 carat. Where did you get that?

A. I got that through Mr. Lippert. That also was not his bracelet. He was acting as a broker, as I understood it.

Q. When did you get that?

A. I can't remember the date. You have one of the checks here, or you have the date of it.

Q. Approximately when?

A. That cost eight hundred and something. That was paid in two checks, one \$500 check and the other three hundred and something, and I had that appraised also. Mr. Lippert allowed me to take that to Laykin's, and Mr. Laykin appraised that diamond bracelet as worth \$1500 retail. [129]

Q. You say he was selling it for somebody else?

A. Yes.

Q. And was that transaction made at the same time that this other transaction was?

A. What other transaction?

Q. The one you just testified about.

A. I am sorry. I don't know what you mean.

Q. Was that transaction made about the same time as the time you bought the diamond friendship ring?

A. No. I think it was some time after that. It was at Hutton's. I was trading at Hutton & Company, and Mr. Lippert was trading at Hutton & Company, and he told me about this woman that needed money, and at that time the stock market was going down, and she was caught in the stock market, and she needed money.

(Testimony of Sydney M. Williams)

Q. And he told you about this? A. Yes.

Q. Did he introduce you to the woman?

A. I have never seen the woman.

Q. Where did you first see this item?

A. I asked him if he would let me take it out and get it appraised, and he said, "Certainly," and he brought it down to Hutton's, and Laykin's is right across Pershing Square from where I was trading at Hutton's, and I walked over to Laykin & Company, and he appraised it as worth \$1500 retail. [130]

Q. He appraised it at \$1500?

A. That is the retail price, yes.

Q. And you then bought it and gave him a check?

A. I gave him two checks, one for \$500,—she needed money right away—and a day or two later I gave him a check for \$355 or \$385—I don't know which. That is the jewelry that is listed here as No. 4, \$900. One of those checks Mrs. Williams has, and the other was introduced in the divorce trial. I introduced it there.

Q. You introduced a check payable to Lippert in the divorce trial? A. Yes.

Q. And if I asked you if you didn't make this on or about the second day of June, 1939, would that refresh your memory?

A. If you say that is the date, that is it. I don't remember. I don't remember the date.

Q. And Mr. Lippert was selling somebody else's property to you? A. Yes.

Q. How far apart were these checks given?

A. Two days, I think.

Q. And do you have the record of the checks drawn?

A. No.

(Testimony of Sydney M. Williams)

Q. You say you gave Mr. Lippert two checks within two days, two days apart? [131]

A. Yes. We can probably get the records from the bank. The bank would have duplicate records of my statements.

Q. Did you buy any other property from Mr. Lippert about that time?

A. Not to my best recollection. I heard Mrs. Williams testify that I bought this diamond bracelet from him, and the diamond wedding ring, for \$90, but I don't have any recollection of that.

Q. Did you buy anything else, that you recall, jewelry that you bought?

A. As I told you at the time of the deposition, I don't remember buying her a diamond bracelet attachment for that watch, because when I bought the watch for \$55 it just had a black band on it, and that watch has nothing to do with this, with what you people are—

Q. You saw this check for \$90?

A. Yes, I did, and what it was for, whether—I was cashing checks for Lippert and he was cashing checks for me, and we were making bets, and it could have been for any one of a dozen things; I don't know what it was. We were on the stock market, and I really don't remember what it was.

Q. To the best of your recollection, did you buy any other jewels?

A. I bought that diamond wedding ring from either Riskin or Lippert. [132]

Q. I am asking you which—

A. I can't tell you something I don't remember, sir.

(Testimony of Sydney M. Williams)

Q. You don't remember about buying this diamond bracelet for the wrist watch?

A. No, sir. I know Betty wanted me to buy her a diamond band for that watch.

Q. Did you buy any jewels from either of these two men, Riskin or Lippert, other than those that you have just testified to?

The Witness: Would you read that to me, please?

Q. Did you buy any jewelry from Lippert or Riskin other than the jewels that you have just testified to purchasing?

A. I bought that wedding ring from one of them.

Q. How much did you pay for the wedding ring?

A. I couldn't even remember that. It wasn't a large sum. It was a diamond wedding band.

Q. At the time you were dealing with Lippert did he have a store?

A. No. To the best of my knowledge, Mr. Lippert was what was called a diamond importer, sold wholesale.

Q. He had a store there?

A. I don't believe he did have.

Q. Where was he working from?

A. In one of those—to the best of my knowledge, it was the Metropolitan Building. That is a jeweler's [133] building.

Q. Did he have a place of business?

A. Yes, sir.

Q. What was it—an office?

A. It was like all those diamond importers have, an office.

Q. But no store?

A. I don't think so.

(Testimony of Sydney M. Williams)

Q. And did Riskin have a storeroom, a store?

A. No. He also had an office in Loew's State Building.

Q. And that is where you transacted your business with him, at that office in Loew's State Building?

A. Yes, sir.

Q. Do you remember, out of this check you paid for this—

A. Just a minute. There was a question about the diamonds at that time. Mrs. Williams testified that when she married me she had fistfuls of loose diamonds and that all these diamonds were hers, and Mrs. Williams had taken all of my checks out of my files, and she was ordered to return them by the court, and she has never returned them. There were other diamonds involved that the court gave an order for her to return. We were trying to straighten out our property, and Mrs. Williams admitted this in court.

Q. Was that check introduced in court by you or by her? [134] A. By her.

Q. And this is the only check you introduced?

A. It is the only one I had. She has all of the rest of them. She has all my bank records.

Q. You didn't get any from the bank at all?

A. She has every one of my records, always has had them, has never returned them.

Q. There was a check to Riskin introduced in evidence, you say, over there?

A. That could be possible.

Q. That is the check you are talking about here?

A. Yes, that is the check in payment of this item  
No. 3.

(Testimony of Sydney M. Williams)

The Court: How much was that check for?

A. \$500.

Q. By Mr. Davis: Mr. Williams, at the time you applied for the policy of insurance, did either you or Mrs. Williams have any other jewels other than those mentioned?

A. Yes, sir.

Q. What did you have? A. I had the ring.

Q. Just what ring?

A. That the \$250 check was introduced for, that I bought from Mickey.

Q. What other jewels?

A. I had a diamond pin that I had gotten also as a fee [135] on a case. It was a tremendous thing, solid platinum two inches high, and on each one of the antlers it had a big diamond. And Betty had the wrist watch that I had gotten her in 1937, that I had bought from Laykin & Company.

The Court: That is listed as No. 1, isn't it?

A. No. That has nothing to do with this watch at all.

The Court: She had two wrist watches?

A. That is right. She had one that I got her in 1937. She didn't ever wear this until after we were married, and the \$55 watch was bought a year and a half or two years before I married her. She had that wrist watch.

The Court: That is No. 3, \$55?

A. That was for that watch that I bought her in 1937. That has nothing to do with anything on this schedule.

The Court: What kind of a watch was it?

A. A little square watch, with diamonds around it, a little Swiss watch. I looked at it yesterday. It could be this one, your Honor.



(Testimony of Sydney M. Williams)

The Court: It could be this watch?

A. It could be. I won't say definitely, because all those watches look alike.

The Court: This could be the watch, then, that you paid \$55 for, but that is not item No. 1?

A. No, your Honor. Item No. 1 is an entirely different shaped watch, an entirely different watch.

Q. That is not item No. 1? [136]

A. No, sir, definitely not.

Q. By Mr. Davis: Let me ask you, Mr. Williams, first of all—I want to get straightened out.

A. May I finish? I would like to finish my answer.

Q. Just a minute. The Elk's pin, and the ring you got from Laykin—

A. Yes, sir.

Q. What kind of a ring was that?

A. That ring was a diamond ring. Mickey was getting married and wanted to buy some furniture, and he asked me \$250 for it and I took that down and—

Q. Just describe the ring.

A. It was a diamond ring, about a carat.

Q. And the Elk's pin?

A. A perfectly white stone.

Q. And then Betty had a wrist watch?

A. Betty had a wrist watch, and Betty had the ring and the pin.

Q. I am asking you, at the time the policy was taken out you say you had the jewelry that is specified in the policy?

A. Yes, sir.

Q. And specified in this exhibit here?

A. Yes; and, in addition, we had these things.

(Testimony of Sydney M. Williams)

Q. Then you had the Elk's pin and the approximately one carat stone you got from Mickey? [137]

A. That is right. And Betty had the wrist watch.

Q. And that wrist watch had no diamond band?

A. If I bought her that—

Q. I am just asking you if it did.

A. It could have and it couldn't have, as I told you.

Q. I am just asking you one question, if, at the time the policy was taken out, Betty had a wrist watch with a diamond band.

A. I couldn't tell you that. She was asking me to buy a band for that watch long before that.

The Court: She did have a watch?

A. Yes, she very definitely did.

The Court: It was a square watch?

A. Yes; that is right.

Q. By Mr. Davis: And you say you don't remember whether you bought a band for it or not?

A. No, I don't.

Q. Then there was the Elks pin and the gent's ring, and the wrist watch. What other jewelry did you have?

A. Betty had a cigarette case with diamond initials on it.

Q. Any other jewelry? A. No.

Q. In the divorce case you made demand for her to produce certain jewels.

The Court: Was that all? [138]

A. Yes, sir.

The Court: That is all the jewelry you had which was not included in the policy? A. Yes, sir.

The Court: At what did they appraise that Elks pin?

A. Well, not the Elks pin—

(Testimony of Sydney M. Williams)

The Court: What did they appraise the carat stone for?

A. I can give you Mr. Laykin's exact words. He said, "If you want to drop it on the counter, I will give you \$400 for it right now," and that was good enough for me.

The Court: And the wrist watch you paid \$55 for?

A. I bought three different watches at different times.

Q. By Mr. Davis: In the divorce case you made the claim that she held certain jewelry belonging to you?

A. Yes, sir.

Q. What jewelry? You got an order from the court—

A. She admitted that she had taken them out of the box.

Mr. Davis: I move to strike that.

Q. What jewels was she ordered to return, by the court?

A. The Elks pin, and the ring I bought from Mickey.

Q. Was that by a minute order of the court?

A. Yes, that was a court order.

Q. Those were the only pieces she was ordered to return?

A. That is right.

Q. And those were the only pieces that were ever in [139] controversy in the divorce action?

A. That is right. When she didn't return them—she didn't return a lot of other things, and I had to sue her in claim and delivery, and I got a \$6,000 judgment against her.

Mr. Davis: I move to strike that, your Honor.

The Court : It may be stricken.

Q. By Mr. Davis: Were those the only pieces of jewelry involved?

A. Yes, sir.

(Testimony of Sydney M. Williams)

The Court: How many divorce suits were there?

A. There was one, but it took two years.

Q. By Mr. Davis: There were no loose stones?

A. Yes, there was. Betty testified that when she married me and when she first met me—

Q. I didn't ask about those things. I asked if there were loose stones involved in the claim in the divorce case.

A. No, sir.

The Court: What is a baguette?

The Witness: We have a couple of experts in court here. I would say it was a pear-shaped diamond. He is shaking his head there.

Mr. Davis: I was under the impression that it was a square-shaped diamond, but I don't know, either.

Mr. Bledsoe: It is those oblong slivers, those little [140] things at the end of it, that I have had described to me as baguettes, oblong-shaped.

Mr. Davis: I don't know how you can describe it.

Q. By Mr. Davis: Will you describe this watch you bought from Laykin in 1937?

A. Just a square little Swiss watch, with diamonds around it.

Q. And you paid \$55 for it? A. Yes.

Q. Was it similar to this watch?

A. I would say yes, Mr. Davis. I wouldn't say that was the watch. This looks like better than a \$55 watch to me, but I am not an expert. Probably one of the boys could tell you.

Q. You bought the watch?

A. Yes. I can't read what it says on here. Mine was a Swiss watch. The watch involved here was an entirely different shape, Mr. Davis.

(Testimony of Sydney M. Williams)

Q. I am asking you about the watch you bought from Laykin in 1937 and paid \$55 for. Is that the watch?

A. I have answered that twice. I don't know.

Q. You don't know whether it is or not?

A. That is right.

The Court: He says he doesn't know that that is the watch. You mean you don't know, because you can't read the name on the watch? [141]

A. No. I know it was a Swiss watch I got from Laykin, and it has a name on here. It looks like it might be "Elgin". I could tell if I could read it. The watch I bought in 1937 was definitely a Swiss watch. If it is an American watch, it would eliminate it, but that is the best I could do. This is an Elgin watch, so it couldn't be. You can't buy a diamond Elgin watch for \$55. I am no expert, Mr. Davis, but I know you can't get an Elgin diamond wrist watch for \$55.

Q. Had you bought any Elgin diamond wrist watch?

A. No, sir. I bought three watches from Laykin, and I paid \$55 for one, and \$65 or \$70 for another, and \$80 for another, and they were all Swiss watches.

Q. Which one did you give to Betty?

A. The \$55 wrist watch.

Q. Was she present when you bought it?

A. No. I bought it for her as a present when I was going with her, before we were married. It looks like "Elgin" to me.

Q. If it isn't an Elgin, an expert can tell?

A. Yes, an expert can tell you.

The Court: No, that isn't an Elgin. I think it is a "Welbow" or something like that, or "Welson".

(Testimony of Sydney M. Williams)

Q. By Mr. Davis: After looking at that—

A. I can't change my story. It could be and couldn't be the watch. It isn't a question of refreshing [142] my memory. I wouldn't know.

Q. You wouldn't know whether it was the watch you bought for her or not?

A. I couldn't possibly say. It was a square watch with diamonds around it.

Q. And the watch had a plain band?

A. A black band; that is right.

Q. A silk band?

A. Yes; you know, the regular black band.

Q. And you gave that to her before you married her?

A. Yes, about two years before, or a year and a half before.

Q. Did she wear it? A. Yes.

Q. Did you ever see her wearing it? A. Yes.

Q. Did you ever see her wearing it with the black band? A. Yes.

Q. Did she wear it after you were married?

A. No, she did not. That was in that little green box with that ring I bought from Mickey, that I was saving for my youngster, and my Elks pin.

Q. Did she wear that watch after she was married?

A. No.

Q. What watch did she wear?

A. I let her wear this watch that I got from Max, and [143] I also let her wear the big diamond ring, and then she wore the other ring on her other hand.

Q. When did she first commence to wear the watch which you say is described in the policy?

A. After we were married.



(Testimony of Sydney M. Williams)

Q. After you were married she never wore this Lay-  
kin watch? A. No.

Q. Handing you Plaintiff's Exhibit 8, that is a ring  
that—

A. I looked at that yesterday. I have never seen that  
ring before, to the best of my knowledge.

Q. You have never seen it before?

A. I don't remember seeing it before.

Q. That isn't the ring that is described in item No.  
3 in the policy, is it?

A. No, sir. Mr. Riskin can tell you whether or not  
it is, but, to the best of my knowledge, it isn't.

Mr. Davis: Will you please not volunteer these state-  
ments?

The Court: Yes. You are volunteering.

The Witness: Yes, and I know better, too.

Q. By Mr. Davis: Will you just describe the friend-  
ship ring, item No. 3, the ring involved in the—

A. It was a 1-carat stone, and you have got the exact  
description here, with 14 smaller round diamonds set  
in [144] platinum.

Q. How does it compare with this ring here, I mean  
in appearance? You can tell us from the appearance  
can't you?

A. I would have to count the stones.

The Court: What was that? I didn't hear it.

A. I would have to count the stones. I count 12  
stones in this and the center stone, and how big the center  
stone is I don't know.

Q. I thought there were 14. A. Are there 14?

Q. I don't know. A. 12 I count.

Q. 12 besides the— A. 12 and the center stone.

(Testimony of Sydney M. Williams)

Q. And the big stone? A. Yes.

Q. Do you know enough about these jewels to give us the approximate size of that center stone?

A. No, I don't. If I did, I wouldn't have these things appraised. I am not a jeweler.

Q. I asked you, in appearance was there any similarity to the ring you say was lost, item No. 3 there?

A. All diamond rings are alike in appearance.

The Court: That may be stricken.

Q. By Mr. Davis: It was the same general appearance ring, [145] was it, set in the same way?

A. I don't know whether it was set in the same way, but it is a large center stone, and diamonds around it, in a platinum ring.

Q. Mr. Williams, were you in San Diego some time in the late spring of 1940? A. No, sir.

Q. At no time?

A. No, sir, never with or without Mrs. Williams. I was separated from Mrs. Williams at that time.

Q. You were still going to the house frequently?

A. I was not. I couldn't get near that house. Every time I got there she either tried to knife me or shoot me or split my head open.

Mr. Davis: I move to strike that.

The Court: Yes. It may be stricken. We don't try divorce cases in this court.

The Witness: That is all a matter of record over there, your Honor.

Q. By Mr. Davis: Did you ever go down to San Diego during 1940? A. No, sir.

Q. Did you ever see Mr. Leitch?

A. Once in my life.

(Testimony of Sydney M. Williams)

Q. Only once? A. Yes, sir. [146]

Q. When was that?

A. It was when I defended his sister on a drunk driving case in some little town out here toward the beach.

Q. And you acquitted her?

A. I acquitted her, and he came out to the car, and Betty introduced him to me, and he thanked me very much for what I did for his sister.

Q. That wasn't his sister that testified here yesterday?

A. No. That is the other sister, Betty's friend.

Q. How did you get to court? Didn't they go to court with you? A. No.

Q. Mr. Leitch came up from San Diego and testified for his sister? A. I don't recollect that—

Q. Didn't he testify?

A. Not to my knowledge.

Q. To your recollection, did he?

The Court: He came out to what car, where?

A. After the trial.

The Court: Was that in Los Angeles County or in San Diego County?

A. That was in Los Angeles County, in some little township. She was with some sea captain at the time, and it was some town out near San Pedro, in some little J. P. [147] court.

The Court: Where was it he came to the car?

A. After the case was over.

The Court: Where was that?

A. Right in this town, right outside the courtroom.

The Court: He was there at the trial?

A. That is right.

(Testimony of Sydney M. Williams)

Q. By Mr. Davis: To the best of your recollection, you never bought that attachment for a wrist watch?

Mr. Penney: I object to that as having been asked and answered three or four times.

The Court: Well, I don't know. I am a little confused about it. He says, as I recall his testimony up to this moment, that he doesn't remember buying the diamond bracelet for the wrist watch, which was bought in 1937, but I don't recall that he testified that he never bought a diamond bracelet.

A. All I know is this, that ever since I got her the watch she wanted me to get her a diamond bracelet. I don't remember buying her a diamond bracelet. I won't say I didn't.

The Court: Did you give her that one?

A. I had that since 1936, that watch and diamond bracelet, all together.

The Court: Then you did have that?

A. Oh, definitely, since 1936. He is asking me now, did I pay over again for this watch, and I have to honestly say I don't know. I know she wanted me to buy it. I am [148] just going by her testimony, where she said I bought it for her. I don't remember buying it for her.

Mr. Davis: I move to strike that, if your Honor please.

The Court: It may be stricken.

Q. By Mr. Davis: Did you ever buy her any diamond bracelet attachment for a wrist watch?

A. Not to the best of my recollection.

The Court: When did you last see this one platinum diamond watch with diamond bracelet attachment con-

(Testimony of Sydney M. Williams)

taining 84 diamonds and two baguettes, which is item No. 1 on the list?

A. I would say some time in 1939.

The Court: You last saw it some time in 1939?

A. Yes. It was in the box with this other stuff.

The Court: She didn't have it on in Calexico?

A. No. She had this item No. 1.

The Court: I am asking you about item No. 1.

A. I am sorry. I thought you were asking me about the other one.

The Court: Item No. 1.

A. When did I last see item No. 1?

The Court: Yes.

A. New Year's Eve, 1939, she was wearing it at that time, in Calexico.

The Court: What happened?

A. We were held up.

The Court: She was not wearing this other watch?

[149] A. No, sir.

The Court: Where was this watch?

A. I don't know where this watch was, but I know she had another watch.

The Court: You are referring to the one you said you last saw in the green box?

A. I thought you asked me about wearing the watch that I bought her in 1937. That is the watch that I thought you were referring to.

The Court: It may or may not be Exhibit No. 7?

A. That is right.

The Court: The other two watches you say you bought about that time were ladies' watches?

A. Yes—not at that time. I bought one for a former wife and one for a girl friend.

(Testimony of Sydney M. Williams)

The Court: That is, besides the watch you bought for her? A. Yes, sir.

Q. By Mr. Davis: When you got that watch from Rosenthal, what did you do with it?

A. Kept it in the vault.

The Court: That is item No. 1? A. Yes, sir.

Q. By Mr. Davis: You kept it in the vault all the time? A. Yes, sir.

Q. Did you give your wife Elizabeth a wrist watch? [150]

A. I gave her a wrist watch, but not that one. I bought another one from Laykin. May I explain? I didn't—

Q. By Mr. Davis: Let me ask you specific questions. You bought another wrist watch and gave it to a girl friend? A. Yes.

Q. When did you buy that other wrist watch to give to your girl friend?

A. Before Betty and after the other one.

Q. Approximately what date?

A. Some time in early 1937, I would say.

Q. Some time in early 1937? A. Yes, sir.

Q. You were still married to—

A. We were getting a divorce.

Q. The divorce hadn't been started?

A. Yes, I bought it after the divorce had been started.

Q. You bought the wrist watch then and gave it to some other girl in 1937?

A. That is right—one like that \$55 one.

Q. When did you buy this wrist watch that you gave to your wife Esther? A. In 1934 some time.

Mr. Penney: I object to that as having been gone into.



(Testimony of Sydney M. Williams)

The Court: The objection is overruled.

Mr. Davis: Answer the question, please.

A. 1934 or 1935, I would say. [151]

Q. Then you bought another one in 1937 and gave it to this other girl? A. Yes.

Q. And then you bought the other Laykin watch and gave it to Betty? A. Yes, sir.

The Court: You bought all three of those from Laykin? A. Yes, sir.

Q. By Mr. Davis: And all that time you had another wrist watch in your vault?

A. Yes; but I bought those things for an investment, not to give to girls.

The Court: This watch No. 1, that is the one that was in your vault? A. That is right.

The Court: When did you buy that one?

A. That was in 1936, when I was handling Max Rosenthal's business.

The Court: You bought that from Max Rosenthal?

A. That is right—that and the big diamond at the same time.

Q. By Mr. Davis: That was in 1936?

The Court: I am a little confused. As I recall your testimony now, you said you paid nothing for Item No. 1.

A. Oh, no, your Honor. I got item No. 1 and item No. 5— [152]

The Court: In settlement with Max Rosenthal, after his divorce case? A. Yes.

The Court: And cancelled your fee?

A. Cancelled my fee, and gave him \$900 in cash—cancelled my fee and what he owed me. And the ring was appraised, retail, at \$2500.

(Testimony of Sydney M. Williams)

The Court: What year was that?

A. That was in 1936. These appraisals we have on this policy are not retail appraisals; they are import appraisals.

Q. By Mr. Davis: You kept the ring and the wrist watch you got from Rosenthal in your vault as an investment? A. That is right.

Q. That was in 1936, while you were married to Esther? A. Yes.

Q. You didn't give her either one of them?

A. No.

Q. You never let her wear them?

A. No, and she was angry about it, too.

The Court: Were there any orders about them?

A. We had a property settlement—it is a matter of record—and I kept the diamonds and jewelry I had.

The Court: Are these mentioned in there specifically?

A. No, not specifically.

The Court: And you were wearing this item No. 5 in [153] Calexico?

A. No, I wasn't wearing it. Betty was wearing it.

The Court: A man's ring?

A. No—a woman's ring, No. 5. Have I got the same list, your Honor?

The Court: One platinum diamond engagement ring. No. 6 is the gent's ring.

A. No. 6 I was wearing, yes.

The Court: No. 6 you were wearing?

A. Yes, sir.

Q. By Mr. Davis: Did I understand you to say that you did give the engagement ring to Betty when you became engaged?

(Testimony of Sydney M. Williams)

The Court: Item No. 5.

A. No. I did not. I gave—

The Court: He gave her No. 3.

A. That is right. You have it listed as a friendship ring. That is the way Mr. Lippert happened to draw up this appraisal. The one that says "Engagement ring" is one I had since 1936. The one that says "Friendship ring" is one I got her as an engagement ring before we were married.

Q. By Mr. Davis: And Mr. Lippert then drew up this schedule here, and did you discuss submitting that schedule to the insurance company—and that was on June 2nd—and the insurance company told you that they would write the risk provided you brought back an appraisal, and you got an appraisal from Lippert on June 23rd? [154]

A. I am sorry. I never told you anything like that in my life. If it wasn't drawn up by Lippert, it was drawn up by your company.

Q. It was drawn up by Mr. Horowitz, from your description?

A. I brought the jewelry in to him. He had the jewelry.

Q. You described these jewels for insurance purposes?

A. If Mr. Lippert didn't do it, Mr. Horowitz must have taken it right off of the jewelry.

Q. Did Mr. Horowitz put a valuation on the jewels?

A. Certainly not.

Q. There was a valuation put on them before Mr. Lippert's appraisal ever came in?

A. If there was, Mr. Horowitz put it on.

(Testimony of Sydney M. Williams)

Q. How many times before this alleged robbery had Elizabeth worn this bracelet and this wrist watch?

A. Every time we would go out.

Q. And all the time after you were married the wrist watch was the only wrist watch she wore?

A. That is right.

Mr. Davis: I think that is all.

The Court: You didn't keep it in the vault, then?

A. No, not after she started wearing it, and it was insured.

The Court: What about the platinum diamond engagement [155] ring, item No. 5?

A. She wore that all the time after that.

The Court: She wore that all the time?

A. Yes, sir.

The Court: Where did you keep the Elks pin?

A. That was kept in this little green box at the house.

The Court: Was that a man's Elks pin?

A. Yes. It was the most amazing thing I have ever seen. Nobody could wear it. It was solid platinum, and each one of the antlers had a big diamond.

The Court: And you kept that where?

A. Also in this green tin box. And she kept her wrist watch—

The Court: The one without the diamond band, and the cigarette case?

A. No. She used the cigarette case. The reason that stuff was in the box, I couldn't use the pin, and the ring was something I was saving for my youngster. The watch, she just never used it.

(Testimony of Sydney M. Williams)

Q. By Mr. Davis: I will ask you another question, then. When did you quit keeping these investment jewels in the safe deposit box?

A. After we were married.

Q. From then on, the jewels were kept in this tin box?

A. Oh, no. [156]

Q. Where were they kept?

A. This tin box was just something that was put away, something we never went into.

The Court: He wants to know where you kept the jewels.

A. These jewels?

Q. By Mr. Davis: All your jewels.

A. I will have to tell you what I have already. Those things were in the tin box, because they were never used, and the others she just kept in her jewel case in her dressing room.

The Court: What others?

A. All these others she was wearing.

The Court: These items 1, 2, 3, 4, 5, 6—you wore No. 6 all the time?

A. Yes.

The Court: But items 1, 2, 3, 4 and 5, she never had those in the tin box?

A. No.

Q. By Mr. Davis: Or in the safe deposit vault, or in the box, after you were married?

A. Even after we were married, before they were insured—I didn't want this insurance then, and Mr. Horowitz—

Q. You were married on June 3rd, weren't you?

A. Mr. Horowitz remarked that they should be insured.

The Court: That may be stricken. [157]

(Testimony of Sydney M. Williams)

Q. By Mr. Davis: You were married on June 3, 1939, is that right, to Elizabeth?

A. I would say about that time.

Q. And the policy was executed and delivered on the 2nd day of June, the day before you were married?

A. It doesn't stress the date definitely. It was around—I told you the things, when she started to wear them.

The Court: Where was this vault?

A. Security-First National Bank.

The Court: At Sixth and Spring?

A. Fifth and Spring.

Q. By Mr. Davis: From that time on they never went back into the vault? A. No.

Q. Did you give up the vault?

A. Yes, I did. I don't know when I gave it up, though. I don't have it now.

Q. Before that time had these other items, the Elks pin and the ring, the youngster's ring, been in the vault?

A. No. They weren't that valuable.

Q. And you had never insured these goods before?

A. No, never. [158]

\* \* \* \* \*

ROBERT L. REYNOLDS,

called as a witness on behalf of plaintiff, being first duly sworn, testified as follows:

The Clerk: Will you state your name?

A. Robert L. Reynolds.

The Clerk: And your address?

A. 610 South Broadway, room 830.



(Testimony of Robert L. Reynolds)

Direct Examination

Q. By Mr. Davis: What is your business or profession, Mr. Reynolds?

A. Insurance investigator and adjuster.

Q. By whom are you employed?

A. By Toplis & Harding.

Q. Who are Toplis & Harding?

A. They are adjusters and investigators for insurance companies.

Q. Have you specialized in any particular type of insurance investigating?

A. Inland Marine Insurance, mostly.

Q. Inland Marine covers personal jewelry and such things?

A. That is right. [159]

Q. Do you recall the incident of a loss being reported in the early part of January, 1940, by Sydney Williams?

A. I do.

Q. Will you state just how that matter first came to your attention?

A. It was January 2nd, 1940, that Mr. Horowitz telephoned my office and stated that one of his clients had a claim to make and he was sending him over.

Q. May I interject? Did Toplis & Harding adjust losses for Continental Insurance Company?

A. Yes, sir.

Q. Go ahead. A. And a short time later—

The Court: What time was that?

A. January 2, 1940. And a few minutes later Mr. Williams arrived in my office to tell me about the loss.

Q. Was he accompanied by Mrs. Williams at that time?

A. No.

Q. Did Mrs. Williams ever come to your office?

A. No.

(Testimony of Robert L. Reynolds)

Q. Did you ever see Mrs. Williams? A. No.

Q. This is Mrs. Williams here in the courtroom now (indicating)? A. Yes. [160]

Q. Go ahead and tell me what took place?

A. I asked him to state the circumstances of this loss he was reporting, beginning with the time that he left Los Angeles on this trip to El Centro, and he proceeded to tell me the circumstances, how they left here on the afternoon or evening of December 30, 1939, and drove to Calexico, and obtained rooms at the Di Anzo Hotel, and then he told me about his friends, Mr. and Mrs. Brown, down there, and Mr. Brown being the Greyhound agent, and that they were visiting with them, and he went on and gave me the story of this alleged hold-up, as he himself outlined it here on the stand, which is substantially the same as he told me at that time.

Q. You heard his testimony this morning regarding how the alleged hold-up occurred? A. Yes.

Q. You were in the courtroom? A. Yes, sir.

Q. And that is substantially the way he told the story to you at that time? A. Yes.

Q. What did you do toward adjustment of the loss? Did you discuss the matter of the amount of the loss with him?

A. In this particular case there are two policies involved. One is an all-risk scheduled policy, where the [161] items are specifically described and the amount of insurance specified on each item. The other policy is what we call a scheduled property floater policy, which is blanket insurance on personal property, with a limited liability on jewelry and furs. On an all-risk policy, when you have an appraisal made by a qualified jeweler, you don't enter into any discussion of value at the time a loss

(Testimony of Robert L. Reynolds)

is reported. When it comes time to make a settlement of the case, you sometimes go into values. However, on a personal property floater it is of interest to know something about original cost and places of purchase on the items involved, even though you have a limit of \$250 on jewelry under that type of policy, and you do ask the assured for some information on those items. When we discussed the items that were not specifically scheduled on the all-risk policy, he informed me that he had lost a diamond friendship ring, which he described as having a large center diamond, with 14 small round stones set in a platinum mounting. I asked him—

The Court: That is what item? Have you got Exhibit 1 before you?

Mr. Davis: Yes, your Honor. I had better make an explanation. We have been referring to the items on the one policy, on the scheduled jewelry policy. The two items, that is, items 2 and 3, on the scheduled jewelry policy, that is, the platinum diamond wedding ring and the diamond friendship ring, were eliminated from that policy by [162] endorsement on August 15th, at the time the unscheduled policy was written.

The Court: It was transferred to another policy?

Mr. Davis: Yes, it was transferred to a blanket policy. They are both involved here, and, just to keep the record clear—and we don't have the policy—with counsel's permission, I am going to—

The Court: Why not let this be Plaintiff's Exhibit 1 in the discussion of the items, because that is the same list which was set forth in the complaint, and it is the list which I have been following, and which all of the witnesses have been discussing.

Mr. Davis: I will hand him the daily report.

(Testimony of Robert L. Reynolds)

The Court: I am handing him Exhibit 1.

Mr. Davis: He has Exhibit 1 there?

The Witness: Yes. Apparently this item No. 3 of this schedule, that not being scheduled on the policy, having been removed from the all-risk policy, the insurance coverage was under the personal property floater, and I asked him where that ring was purchased, and he told me he bought it from Riskin, and that it cost wholesale, he said, \$375. The other item of personal property floater consisted of cash money, \$96.

Mr. Penney: Your Honor, I am confused. I seem to have the wrong list here.

The Court: Have you the complaint? [163]

Mr. Penney: I have the complaint, your Honor, but—

Mr. Davis: The list he has there was copied from the complaint.

The Court: Plaintiff's Exhibit No. 1 has the same item numbers and descriptions as paragraph 5 of the complaint. Plaintiff's Exhibit No. 1 is the one that each of the witnesses so far have used in testifying or referring to the items. Now, that is item No. 3.

The Witness: He also reported cash money in the amount of \$96, and a Gruen wrist watch, Curvex model, valued at \$125.

The Court: That is what he paid for it, you say?

A. That is the value he reported. He described it as being a solid yellow gold case, with a gold dial and gold numerals. I was familiar with the value of the watch, and I knew it was a \$125 watch, so I didn't even ask him where he bought that one. However, in discussing the purchase of that item that appears as No. 3 on Exhibit 1. I asked him about that, and he volunteered the informa-

(Testimony of Robert L. Reynolds)

tion, without my asking it, simply as a matter of conversation, I took it, information as to the values on the items appearing on this unscheduled policy, particularly item No. 5. He volunteered the information that that ring cost him more than \$3,000. Inasmuch as I intended to communicate with the jeweler who had made the appraisal, to verify the appraisal and ascertain if the items could be duplicated at the amount of the [164] appraisal or less, I didn't question him on the original purchase price or places of purchase on the unscheduled items.

Q. Then what further did you do, following that?

A. Well, inasmuch as this loss was reported to have occurred in Calexico, I referred the investigation of the case to our representative, the Lyle Adjustment Bureau, in that territory, and they made the investigation, in co-operation with the police department and the sheriff's office in that territory.

Q. Was any trace of this lost jewelry ever found?

A. No.

Q. Did you ever tell Sydney Williams that the jewels had been traced to Mexico City?

A. No, I did not. We never traced them there.

Q. Were you or any of your investigators working for you ever able to find any trace of these jewels?

A. No, we did not.

Q. You followed your usual procedure in making your investigation?

A. I did.

The Court: Did you see Sydney Williams again after that?

A. Yes, I saw him once after that.

The Court: In your office?

A. Yes, he came to my office with Mr. Lewbel.

(Testimony of Robert L. Reynolds)

Q. Did you again discuss the case with him?

A. To the best of my recollection, we did discuss it. [165] However, I had full information on the case, and I didn't make any further notes on it. Mr. Lewbel simply stated that Mr. Williams was a friend of his and told me something about Mr. Williams himself, and hoped that our investigation would result in the recovery of his property.

The Court: Who is Lewbel? Is he one of your agents?

A. No. He is a man we used sometimes on appraisal work involving merchandise destroyed, and things of that kind. He works for various insurance companies, I understand.

Q. By Mr. Davis: When was that statement, approximately, with relation to the—

A. I would say that was within the same week or ten days of the original interview.

Q. Did you hear from Mr. Williams at the time the investigation was under progress?

A. I talked with him over the telephone a few times.

Q. What finally was the result of the investigation of the reported loss?

A. Ordinarily in a case of this kind we usually take 30 days for an investigation. In this particular case we took considerably longer. We weren't particularly pleased with the case, and we went into it very thoroughly, and finally, after a lapse of approximately 60 days, and no evidence having been uncovered that indicated that the case was not in order, and no trace of the property had been obtained, there didn't seem to be any prospect of solving the [166] case, so we prepared the proofs of loss



(Testimony of Robert L. Reynolds)

for the assured's signatures, the proofs were obtained, and on March 4, 1940—

Q. Pardon me. Let me interrupt you a minute. I am handing you Plaintiff's Exhibits 5 and 6, and will ask you if those are the documents you refer to as the proofs of loss? A. That is right.

Q. And those documents were prepared in your office and under your direction? A. That is right.

Q. Then what did you do with them, after you prepared them?

A. They were mailed to the assured.

Q. Whom were they mailed to—Sydney Williams or Elizabeth Williams, or both?

A. I will have to refer to my file. They were either mailed to Mr. Williams or to Mr. Horowitz. I will tell you in just a moment. They were mailed to Mr. Williams on February 19, 1940.

Q. Then did they come back to you?

A. Yes, they were returned to my office, and I forwarded them on to the insurance company on March 4, 1940.

Q. When they came back were they executed and signed by Elizabeth Williams and Sydney Williams, with a notarial acknowledgement attached?

A. That is right. [167]

Q. Now, you recommended payment of this loss to the company; is that right?

A. I don't recall whether I recommended it or simply submitted it. I think my final report is in your possession. It is not in my file.

Q. I don't find it right now. I will put it in another way and withdraw that question. Did you, within 60

(Testimony of Robert L. Reynolds)

days—that is the time provided for in the policy within which to pay the loss, isn't it?      A. Yes.

Q. 60 days after submission of the proof?

A. Yes.

Q. Within 60 days had you uncovered any evidence which, in your opinion, justified you in advising the company not to pay the loss?

A. We were unable to obtain any.

Q. Either way?      A. No.

Q. And you submitted it to the company and advised the payment of the loss?      A. That is right.

Mr. Davis: I think that is all.

#### Cross-Examination

Q. By Mr. Penney: Your duties are not only to check the facts of the loss, but also to check the valuations; isn't that true? [168]

A. On unscheduled property, yes.

Q. Mr. Williams gave you the names of the parties with whom he had dealt in connection with the obtaining of this jewelry, didn't he?      A. Yes.

Q. And you contacted those parties, didn't you?

A. I contacted Mr. Lippert by telephone at Vandike 7904, and asked him if he made this appraisal, and he varified the fact that he had, and in these amounts.

The Court: Did I understand that Mr. Williams gave you the names of all the people from whom he purchased the items?

A. No: just the one item on the unscheduled one, the one which had been removed, the friendship ring.

Q. By Mr. Davis: But you have what is known as a value form policy, haven't you?      A. No.

(Testimony of Robert L. Reynolds)

Q. Isn't there a value form?

A. An all-risk policy is not a value form policy. At least I have worked for 17 years under the instructions that an all-risk policy is not a valued form policy. My understanding is that they are not allowed to be written in this country.

Q. Isn't it a fact that on one of these policies before the risk is written, that there was a valuation placed on the jewels?

A. That is right. [169]

Q. So that you have no occasion, when it comes to an adjustment, to question the values placed on those particular items?

A. It all depends on the circumstances. Only with Mr. Lippert verifying the fact that he had made the appraisals as of certain amounts on a certain date, and I inquired from him if they could be duplicated at the present time, and if they could have been duplicated for less money I would have approached Mr. Williams with the idea of making replacements, rather than paying this in cash.

Q. You didn't offer to replace, in this case?

A. Mr. Lippert discouraged it, discouraged me.

Q. As a matter of fact, he told you that these articles couldn't be replaced for anywhere near the amount of the insurance, didn't he?

A. If I recall right, he told me he couldn't replace them at any savings to the insurance company.

\* \* \* \* \*

Mr. Penney: Your Honor, one of these witnesses advised me that she has been called by the plaintiff in this case, and Mr. Lippert is in court, and I don't know—

The Court: Do you wish to call him as one of your [170] witnesses?

Mr. Penney: No, your Honor, not at this time. [171]

\* \* \* \* \*

Mr. Penney: Your Honor, the defendant Sydney Williams moves to dismiss, under Section 41(b), on the ground that under the facts and the law the plaintiff has shown no grounds for recovery in this case.

If the court desires them, I think there are a very few short cases pertaining to this matter. Your Honor, looking at it in the most charitable way, so far as the defendant Mrs. Williams is concerned, this would have to be a conspiracy and tried on that theory. The only evidence this court has before it at this time of any fraud of any kind comes from the lips of Mrs. Williams. No other witness has testified in this case on any subject matter pertaining to facts that would in any way implicate Mr. Williams. [172]

\* \* \* \* \*

The Court: Do you have some other matters in your motion?

Mr. Penney: No, your Honor. [173]

\* \* \* \* \*

The Court: I am inclined to think that your analysis is probably correct. The motion for a non-suit will be denied. [175]

\* \* \* \* \*

LOIS BROWN,

called as a witness on behalf of defendant Sydney M. Williams, being first duly sworn, testified as follows:

The Clerk: Will you state your name?

A. Lois Brown.

The Clerk: And your address?

A. Burbank, California.

The Court: And the street address?

A. 1513 North Naomi Street.

Direct Examination

Q. By Mr. Penney: Miss Brown, will you speak loud enough so that I can hear you?

A. All right. I will try.

Q. What is your husband's business or occupation?

A. He is in the wholesale produce business.

Q. What business was he engaged in in 1939?

A. In the growing of produce, and he also had the Greyhound agency in Calexico.

Q. Did you have occasion to see Mr. and Mrs. Sydney Williams in the latter part of December, 1939?

A. Yes. They came down to visit us on the 30th.

Q. That is, Mrs. Williams, who is sitting here at the counsel table, and Mr. Williams?

A. That is right.

Q. What time did they arrive there, if you recall?

A. Sometime in the afternoon of December 30th.

[176]

Q. Were you with them that day? A. Yes.

Q. Were you with them the following day?

A. That is right.

(Testimony of Lois Brown)

Q. Were you with them all day, or were they outside of your presence at any time?

A. I think they went to the hotel, and came back to see us again, but most of the day we were together.

Q. Did you observe whether or not Mr. or Mrs. Williams were wearing any jewels of any kind on that occasion?      A. Yes, they were.

Q. Will you describe the jewels that Mrs. Williams was wearing?

A. I just saw Mrs. Williams for the first time that day, but she had on a diamond bracelet on her right hand, and a diamond ring, and then on her left hand was a wrist watch with a wide diamond band, and a very large engagement ring.

The Court: She had rings on each hand?

A. Yes, sir.

Q. Did you see them on both the 30th and the 31st, that is, these rings and the jewelry you have described?

A. Yes, I did.

Q. Mrs. Brown, on the day of the 31st, what, if anything, did you and Mr. Brown and the Williamses do that day?

A. Went out to eat together in Mexicali. [177]

Q. What time was that?

A. That was in the evening. Earlier in the day we had taken a trip into Mexico and had taken pictures in Mexicali.

Q. Were you with them all the afternoon of the 31st?

A. Yes, I believe I was.

Q. What time did you return from this trip to Mexico?      A. I would say in the late afternoon.

Q. When did you next see them?

A. We went out to dinner.



(Testimony of Lois Brown)

The Court: You went directly to dinner?

A. No. We came back first.

The Court: You mean they left you?

A. Yes; they went to their hotel.

Q. By Mr. Penney: How long were they gone, Mrs. Brown?

A. Not so very long. Then they came back to the Greyhound agency, and we couldn't go over to dinner with them at that time, so they went ahead and went over to the Gangrenous in Mexico, and Mr. Brown and I joined them later on.

Q. Do you recall about what time it was you joined them?

A. I would say about 7:00 o'clock. It might have been earlier, but about that time.

Q. Then what occurred after that?

A. We came back to the American side through the [178] Customs, and Mr. Brown and I had to stay at the station to meet some friends coming from Mexico City, and Mr. and Mrs. Williams went to the hotel. And they were to meet us at our house later on that evening, and we were going to this party in Mexico.

Q. Did you see them later that evening?

A. Yes, I did.

Q. About what time did you see them?

A. I would say it was about 9:00 or 9:30 in the evening.

Q. And where were they at that time?

A. Mr. Brown and I went home and dressed, and Mr. and Mrs. Williams rushed through the door, rapped on the door and said, "Let us in. Get the police," or "Where is your telephone?" They were very excited. And Mr. Brown and I both went to the door and let them

(Testimony of Lois Brown)

in. And we didn't have a telephone in our apartment. So Mr. Williams was very excited and Mrs. Williams was very nervous, and we took them in our car and took them over to the Calexico police station.

Q. Did Mrs. Williams go with Mr. Williams to the police station? A. Yes; we all rode over.

Q. What, if anything, did Mrs. Williams state in your presence in regard to this robbery?

A. When I opened the door, she told me they had been held up, and they were very much out of breath, and she told [179] me, "I just lost my jewelry, my bracelet" or wrist watch—I don't know—I don't recall just which—had lost her jewelry, and Mr. Williams had lost his watch and his ring. And they were very excited. And I was very nervous at that time, and we took them over to the police station; Mr. Williams wanted the police.

Q. On the afternoon of December 31st, while you were with Mr. and Mrs. Williams, did you go to Yuma at any time? A. Oh, no, I did not.

Q. You didn't see Mr. Williams throw a wrist watch in the All American Canal that afternoon, did you?

A. I didn't see the All American Canal that afternoon. We weren't near it.

Mr. Penney: You may cross examine.

#### Cross-Examination

Q. By Mr. Bledsoe: Were you with them on the 30th at Yuma?

A. I didn't go to Yuma at any time.

Q. You went to the police station with them?

A. Yes.

Q. And everybody was excited?

A. That is right.

(Testimony of Lois Brown)

Q. Do you remember talking to one of the police officers there?

A. I didn't talk to them at any time.

Q. You heard Mrs. Williams and the police officer [180] talking?

A. Yes.

Q. Did you hear the police officer say, "You don't act like a man who had been held up", to Mr. Williams?

A. I did not.

Q. When Mr. Williams was at the police station had he been drinking?

A. No, that is not correct.

Q. Had he had anything to drink?

A. Not to my knowledge.

Q. Did Mrs. Williams wear a coat?

A. Yes, sir.

Q. Was the bracelet below the sleeve of the coat?

A. I noticed it when we were having dinner.

Q. Did she have a long sleeve dress on?

A. No.

Q. She had gloves on?

A. No.

Q. When was the last time you saw this jewelry on Mrs. Williams?

A. When we were having dinner.

Q. That evening?

A. That is right.

Q. You don't know whether there was a robbery or not, do you?

A. I don't know, only what— [181]

Q. Shortly after this occurred, you and Mr. Brown left Calexico and went to Burbank?

A. We didn't leave Calexico until April, 1940.

Q. Is Mr. Brown in court?

A. No, he is not.

Q. Is he available?

A. Not just now, no.

Q. Where is he?

A. He is in Arroyo Grande.

Q. Have you lived in Burbank ever since you left Calexico?

A. No, I haven't.

(Testimony of Lois Brown)

Q. How long have you lived in Burbank?

A. I lived in Burbank from April, 1940, until November of 1941.

Q. And from September 1, 1943, until the present time—pardon me.

A. From September 1, 1943, until the present time.

Q. Did your husband register with the Burbank draft board?

A. Yes, he did.

Mr. Penney: I am going to object to this, your Honor. I can't see the materiality of it.

The Court: I suppose it is foundation for the purpose of impeachment.

Q. By Mr. Davis: Since September, 1943, you have lived [182] in Burbank, California, at the same address that you have given here?

A. Yes, that is right.

Q. Now let me ask you one further question. Have you used the name of Gassoway in the past?

A. That is my maiden name.

Q. Have you used the name Yager?

A. That is my stepfather's name.

Q. Have you ever used the name Edwards?

A. I was previously married to Irving A. Edwards.

Q. You are not married to him now?

A. That is right, but I used that name while I was married to him.

Q. Have you used the name Salot?

A. I refuse to answer that question.

Q. Did you use the name—

The Court: Just a moment. On what ground do you refuse to answer?

A. I have a son, and I don't want to talk about it.

The Court: I don't think that is a proper ground for refusing to answer. You can refuse to answer it on

(Testimony of Lois Brown)

the ground that it might incriminate you or degrade you, but not on the ground that you are protecting somebody else. I instruct you to answer the question.

A. Yes.

The Court: You have used the name of Salot? [183]

A. That is right.

Q. By Mr. Bledsoe: You have used the name of Warner? A. No, sir.

Q. Haven't you used the name Warner recently?

A. No, sir, I have not.

Q. Do you remember verifying under oath the complaint or petition filed in the Superior Court of the State of California in and for the County of Imperial, on or about the 16th day of November, 1943, before Clarence B. Smith, a notary public?

A. I had a case in El Centro at that time, in Imperial County, yes.

Q. Do you recall verifying the complaint at that time?

A. I don't understand what you mean.

The Court: Where is it? Show it to counsel first.

Mr. Penney: Your Honor, I haven't any objection to the court seeing this. I want to say, however, that it is obviously nothing more or less than an attempt to bring in extraneous matters. I can't see the materiality of it.

The Court: Counsel hasn't asked any question yet. He has a paper, which he is proposing to show the witness, and I asked him to show it to you. You may pursue your interrogation.

Q. By Mr. Bledsoe: Showing you, Mrs. Brown, what purports to be a copy of a complaint filed in Imperial County, I will ask you to look at it and tell us whether or [184] not you signed the verification on the last page?

(Testimony of Lois Brown)

The Court: Is that a certified copy?

Mr. Bledsoe: It is not.

The Court: It is a signed copy?

Mr. Bledsoe: Yes. My question was, if she remembered— A. I have never signed this.

Q. By Mr. Bledsoe: Do you recall filing a suit against Mr. Salot in Imperial County?

A. That is right.

Q. Some time in November, 1943?

A. That is right.

Q. Is that it there? A. This is the suit.

Q. And in that suit you stated that you were a resident of Imperial County? A. I was, yes, sir.

The Court: This will be marked for identification.

Q. By Mr. Bledsoe: In November, 1943, were you a resident of Imperial County? A. Yes, sir.

Q. Didn't you state that you lived in Burbank?

A. You asked me where Mr. Brown lived.

Q. I asked you where you lived, and didn't you state that you lived in Burbank since September, 1943?

A. I understood you to ask me where Mr. Brown lived.

The Court: I think he asked you whether you had lived, [185] since September, 1943, up to the present time, in Burbank.

A. I beg your pardon. I lived in Burbank from April, 1940, until November or December of 1941. Then I understood him to ask about Mr. Brown being with the Burbank draft board.

The Court: He asked you whether you had lived there since September 1, 1943, to the present time, and then he



(Testimony of Lois Brown)

asked you about the draft board. What is your answer now?

A. I have been a resident of El Centro most of that time.

Q. By Mr. Bledsoe: Couldn't you file that petition in Imperial County? Mr. Salot was living in Los Angeles County?

A. Yes, sir.

Q. And you were living in Burbank with your husband?

A. No.

Q. Didn't you go down there for the sole purpose of filing that complaint?

Mr. Penney: I can't understand the object of cross examining her on this. That hasn't anything to do with this case.

The Court: Apparently it is for impeachment purposes, to show that at a certain time she made a contrary statement under oath. Objection overruled.

A. Mr. Salot said he would embarrass me if I came up and testified for Mr. Williams, that he would attempt to embarrass me.

The Court: That may be stricken from the record. [186]

Mr. Bledsoe: May I have the paper? I would like to offer that in evidence at this time, if the court please. Referring to the last paragraph, if I may—

The Court: I don't know which paragraph you are talking about.

Mr. Bledsoe: The last paragraph of the complaint, and the fact that she states that she is a resident of Imperial County. If there are any other matters in there which might embarrass her, they may be stricken. It is not my purpose to embarrass this witness.

(Testimony of Lois Brown)

The Court: "That plaintiff is at present residing in Imperial County, California." It is a public document in Imperial County.

Mr. Bledsoe: Yes, your Honor.

The Court: It will be admitted in evidence.

The Clerk: Plaintiff's Exhibit No. 9.

The Court: It will be Plaintiff's Exhibit No. 9. Any redirect?

#### Redirect Examination

Q. By Mr. Penney: Were you residing at that time in Imperial County, with your child, at the time of that affidavit?

A. I was, yes, sir.

The Court: You said your name was Gassoway. You mean that was your maiden name?

A. Yes, sir. [187]

The Court: That was your father's name?

A. Yes, sir.

The Court: And Yager was your stepfather's name?

A. Yes, sir.

The Court: And then you were married to Edwards?

A. That is right.

The Court: And you were married to Salot?

A. I was not.

The Court: You were married to Brown?

A. Yes, sir.

The Court: And you are still married to Mr. Brown?

A. Yes, sir.

Q. By Mr. Penney: How long had you been in Calexico, you and your husband, prior to December 31, 1939?

(Testimony of Lois Brown)

A. I believe it was about September 1st to 15th that I moved there.

Q. In 1939? A. 1939.

Q. Mr. Brown's brother owned and conducted a service station? A. No. It is in Mr. Brown's name.

Q. His brother was there? A. Yes, sir.

Q. And you were living at his brother's home, were you? A. I was living with Mr. Brown's family.

Q. Did Mrs. Williams come down to see you? [188]

A. Yes, sir.

Q. Did she let you know beforehand that they were coming?

A. Mr. Brown and I had invited them down.

Q. When?

A. We had been in Los Angeles some time in November and visited them, visited Mr. Williams at his office, and we invited them down at that time. I had never met the present Mrs. Williams, and it was agreed that they would come down during the holidays.

Q. Was Mr. Williams your attorney at that time?

A. No, he was not.

Q. Did you know beforehand that they were going to be there New Year's Eve, a day or so before?

A. I knew they were coming down that week. I didn't know just what day.

Q. Did you invite them to stay at your home?

A. No, we did not.

Q. You didn't know they were there until after they registered in the hotel?

A. I couldn't say. I don't know. [189]

\* \* \* \* \*

## SYDNEY M. WILLIAMS,

having been heretofore duly sworn, upon being recalled as a witness in his own behalf, testified as follows:

## Direct Examination

Q. By Mr. Penney: Mr. Williams, did you at any time, in the City of Burbank or at any other place, while riding with your wife, tell her, in substance or effect, that you contemplated having a hold-up in order to collect the insurance money upon your jewelry?

A. No, sir.

Q. Did you at any time ever purchase for her, for \$1.95 or \$2.95, an imitation diamond ring?

A. No, sir.

Q. When you went to Calexico on the 30th day of December, 1939, did you, upon that day or upon the 31st day of December, ever go to Yuma or to the All American Canal?

A. No, sir.

Q. Did you, Mr. Williams, at any time, ever throw a [190] watch in the All American Canal or any other canal?

A. No, sir.

Q. After the robbery of the 31st day of December at Calexico, did your wife throw away a ring of any kind?

A. No, sir.

Q. Did you at any time suggest to your wife that you would falsely report a theft of the property covered by the insurance?

A. No, sir.

Q. Mr. Williams, in the fall of 1941, during this divorce proceeding, did you have any conversation with your wife in which she threatened that she would accuse you of this particular matter?

A. Yes.

Q. Where did that occur?

A. She called me up on the telephone at my law office.

Q. Did you recognize her voice?

A. Yes.

(Testimony of Sydney M. Williams)

Q. What, if anything, did she tell you at that time?

A. She told me that unless I turned over the stock she wanted and settled the property the way she wanted, she was going to go to the insurance company.

Mr. Davis: I move to strike that. He put it as an impeaching question.

The Court: Sustained.

Mr. Penney: You may cross examine. [191]

### Cross-Examination

Q. My Mr. Davis: Mr. Williams, you say you did not go to Yuma during this trip to Calexico in December of 1939?

A. That is right. We took a ride both days with the Browns.

Q. I just asked you that question.

A. I don't even know where Yuma is from there.

Q. I will ask you if you did not, on January 2, 1940, tell Bob Reynolds that you and Elizabeth, on your trip to Calexico, and on December 31, 1940, drove to Yuma about 10:00 o'clock in the morning, and return to Calexico at about 6:30? Did you not make such a statement?

A. No, sir.

Q. To Mr. Reynolds? A. No, sir, I did not.

Q. Or at any other time? A. No, sir.

Mr. Davis: That is all.

Mr. Penney: That is all. At this time, your Honor, I wish to adopt the testimony which Mr. Williams gave under Section 43(b). when he testified under cross examination by Mr. Davis.

The Court: All right. You may do so.

Mr. Penney: I would like to call Mrs. Williams at this time under Section 43(b). [192]

## ELIZABETH J. WILLIAMS,

having been heretofore duly sworn, upon being recalled as a witness by Sydney M. Williams, under the provisions of Section 43(b), testified as follows:

## Direct Examination

Q. By Mr. Penney: Mrs. Williams, referring now to Plaintiff's Exhibit No. 8, I want you to examine that ring carefully and tell me whether or not that is one of the articles which you testified was put between two boards and placed in the attic? A. It is.

Q. Is it in the same condition now as it was at that time? A. Yes, sir.

Q. How big a hole did Mr. Williams carve in these two by fours?

A. Well, I can't tell you exactly, but I imagine about an inch deep.

Q. And he did that with what?

A. A screwdriver and a hammer, and I believe a small chisel.

Q. He took the jewelry and placed it in the opening of the two by fours; is that right?

A. Of the two by fours.

Q. He carved each one of them, did he?

A. Yes, sir. [193]

Q. Did he have a ruler of any kind?

A. I don't remember him having one.

Q. Did he mark it with a pencil in any way?

A. He probably measured so the holes would fit together.

Q. After he had placed the jewelry in there—I presume he put some on one side and some on the other; is that right?

A. I imagine he put it on one side.



(Testimony of Elizabeth J. Williams)

Q. You saw him do this, didn't you? A. Yes.

Q. Did he place them all on one side?

A. I can't say whether he did or not.

Q. You saw him cut two holes in these boards?

A. Yes; I was in and out of the room, and I saw him.

Q. After he placed them inside, what, if anything, did he do?

A. He had the diamonds in a small handkerchief, and he put plaster of paris—or some other—I believe plaster of paris over it.

Q. What does plaster of paris look like?

A. Well, it is a white powder that hardens when mixed with water.

Q. Did you have plaster of paris in the house at that time? A. No. He bought a can. [194]

Q. Bought a can of plaster of paris and cemented it over? A. Yes.

Q. And took the two boards and nailed them together; is that right? A. That is right.

Q. That was on what date?

A. It must have been on the 29th of December, because we went to Calexico on the 30th.

Q. You never saw that jewelry again until—

A. Until we went to San Diego.

Q. And when was that?

A. Oh, the latter part of May or the first of June.

Q. Of 1940? A. Yes, sir.

Q. You had never attempted to look in between these boards, had you, to see if the jewelry was still there?

A. No.

Q. And you had separated from your husband on the 8th of May, 1940? A. That is right.

(Testimony of Elizabeth J. Williams)

Q. You were quarreling with him, were you not, over the division of property, during that period of time?

A. No, sir.

Q. The subject was never mentioned?

A. It probably wasn't mentioned. [195]

Q. This particular ring here is now in its original setting; is that right?

A. It is the setting that it was in when Mr. Williams gave it to me in 1937.

Q. And it is in the same condition now as it was then?

A. Only it has been made smaller since he gave it to me in 1937.

The Court: Where is the original of the deposition?

Mr. Penney: I have the original.

The Court: Do you want to file it?

Mr. Penney: I don't know what the custom in this court is in regard to these originals. Some of the courts don't permit you to file them. I will file it, if the court desires.

The Court: I think it ought to be filed if you are going to use it.

Mr. Penney: All right, sir.

Q. Which of these rings is described in Plaintiff's Exhibit No. 1 for identification? A. This one.

Q. That is known or designated as the friendship ring; is that correct? A. Yes, sir.

Q. That is the ring that you wore on your little finger? A. Yes, later. [196]

Q. I will ask you to look, on page 13 of your deposition, at the question commencing on line 16, and the answer on line 19. Have you finished reading it?

A. Yes, sir.

(Testimony of Elizabeth J. Williams)

Q. You were sworn to testify, in the deposition which was had on Sunday, the 10th day of December, at the office of your attorney, Mr. Taylor? A. Yes, sir.

Q. At room 735, in the I. N. Van Nuys Building in this city? A. Yes, sir.

Q. And did you testify as follows to this question:

“Q.—You told me about the watch and the engagement ring. Now, what other rings did you have at that time that he broke up?”

And did you answer: “The ring that I wore on my small finger, and a bracelet, a diamond and emerald bracelet, and Sydney’s two-carat stone.” Did you so testify?

A. If it is in my deposition, I did, but that wasn’t correct, because he didn’t have my little finger ring.

Q. Wait a minute. How can you explain the fact now that this ring has not been broken up?

A. You were asking the question so fast, Mr. Penney, that I just got mixed up.

Q. I cautioned you, did I not, that if there were any questions which I asked of you which you didn’t understand, [197] not to answer, but to ask me for an explanation, didn’t I?

A. Yes, you said that, but you were asking them so fast and I was answering so fast.

Q. That is not a fact, however?

A. No. This is a ring that I wore on my left hand, and Sydney gave it to me in 1937, and after he bought the three-carat stone we had it cut down at Mr. Laykin’s, and I wore it on my right hand.

The Court: What finger?

A. My small finger.

(Testimony of Elizabeth J. Williams)

Q. By Mr. Penney: Now, Mrs. Williams, when you returned from San Diego, after breaking up the jewelry, where did you go?

A. I went home. Mr. Williams took me home.

Q. And left you there? A. Yes, sir.

Q. What, if anything, did you do with the jewelry you had at that time?

A. What jewelry, Mr. Penney?

Q. The jewelry that you came back with.

A. Mr. Williams took them and put them in a little box, a little green box.

Q. Did he come in the house?

A. He came in the house.

Q. What time did you arrive home that day?

A. Well, I should judge—I don't know exactly, but [198] 9:30 or 10:00 o'clock at night; maybe a little before that. I don't remember, Mr. Penney.

Q. They were put in a green box and kept there; is that right? A. For a while, yes.

Q. Let us turn to page 18, line 10. I will ask you to look at your deposition on page 18, starting with line 10 and ending with line 14. Have you read it?

A. Yes, sir.

Q. All right. I shall now ask you whether you made the following answer in response to the following question at the time of taking the deposition in Mr. Taylor's office?

A. I probably did.

Q. Wait a moment. A. I am sorry.

Q. Perhaps I had better start at line 7—speaking about the jewelry: "And where were they when you last saw them?" And then the answer: "In the same unfinished room that we put them in after we came from San Diego, in that attic.

(Testimony of Elizabeth J. Williams)

“Q.—He took them back up into the attic, did he, and put them under the boards?

“A.—Yes, sir, he put them under a board.

“Q.—He did not put them between boards?

“A.—No.”

Did you so testify? [199]

A. I did, but, as I said—

Mr. Davis: Just a minute. I will object to that. That is not impeaching. The question is, what she testified to here.

The Court: It goes to the weight of the testimony.

Q. By Mr. Penney: Mrs. Williams, you told us about an incident which occurred while you were riding in Burbank with Mr. Williams? A. Yes, sir.

Q. Where were you in Burbank at the time of that conversation? I am speaking now of the conversation in which he mentioned the subject of a robbery.

A. We had just turned off of Main Street—I don’t recall the street, but we were on our way home.

Q. From where?

A. I think we had been to a show.

Q. What time of the day or night was it?

A. Well, we went to the early show, 7:00 o’clock or 7:30.

Q. And what did Mr. Williams say to you?

A. He said this would be a good place to have a hold-up.

Q. Is that the first time he ever mentioned it to you?

A. Well, yes, I think it was the first time.

Q. Or do you recall any other conversation in that regard prior to that time? [200] A. No, I don’t.

Q. Mr. Williams said to you, “This would be a good place for a hold-up”? A. Yes, sir.

(Testimony of Elizabeth J. Williams)

Q. Is that all he said? A. Yes.

Q. Did you say anything?

A. I probably commented on it. I don't remember what I said.

Q. Did you discuss it further after you went home?

A. Not at that time, no, sir.

Q. When did you next discuss any question regarding a hold-up-with Mr. Williams

A. Just before we went to Calexico.

Q. How long before?

A. Well, I don't remember how long before.

Q. A couple of weeks before?

A. No, it wasn't that long before, I don't think. It has been a long time ago, Mr. Penney, and I can't remember the exact day.

Q. How many conversations did you have with Mr. Williams in regard to a hold-up?

A. I don't know. I can't tell you how many conversations we had. I don't remember how many times we talked about it before we went to Calexico.

Q. At some time or other Mr. Williams, according to [201] your testimony, had told you that you needn't worry, that he was a lawyer and would keep you out of trouble?

A. That is right; he did say that.

Q. I am trying to find out when that was.

A. On our way back from San Diego.

Q. That is the first time, to your knowledge; is that right?

A. About him being an attorney and he would get me out of it, yes, as I remember.

Q. Let us take the conversation you had prior to the time you went to Calexico. What was said on that occasion in regard to a robbery?



(Testimony of Elizabeth J. Williams)

A. A few days before we were supposed to go to the Rose Bowl game—I don't know how many days it was before we went—Mr. Williams asked me if I had ever been to Calexico, and I had been there, and he asked me if I would like to take a trip, and then he told me why we were going.

Q. What did he say to you?

A. That he was going to have a phony hold-up so he could use the money in the market.

Q. And what did you say?

A. I don't remember what I said, Mr. Penney, but it wasn't a good idea. I have never done anything like that before, and naturally I was nervous about it.

Q. You told him at that time, surely, that you didn't want to do it? [202]

A. Yes, I suppose I did.

Q. Wasn't it on that occasion that he told you not to worry about it, that he was a lawyer and would keep you out of trouble?

A. No; I think it was on the way back from San Diego. On the way back he did tell me that.

Q. You told him on that occasion that you didn't want to do it, didn't you, when he told you up here that he wanted to stage a fake hold-up?

A. Please ask me that question again.

Q. When he told you in Los Angeles, before you went down to Calexico, that he intended to stage a fake hold-up, you told him you didn't want to do it, didn't you?

A. I don't remember what I told him.

Q. Did you say anything?

A. I probably did, Mr. Penney, but—

(Testimony of Elizabeth J. Williams)

Q. Just answer my questions. If you don't remember, just say so. What else was done before you went down to Calexico, in regard to this hold-up?

A. We went to a Chinese store.

Q. When?

A. Probably on the 29th, the day before we went down, or the 28th: I don't remember; it was a day or two before we went down. It probably was the day before we went down. And we bought a stone about the size of my three-carat stone, and I put it on my finger. [203]

Q. You don't mean a stone—you mean a ring, don't you?

A. I mean a ring—a stone about the size of my three-carat stone in my engagement ring.

Q. And that was the only piece of jewelry you had on your hand or arm when you went down to Calexico?

A. I had my wedding ring on.

Q. Your wedding ring? A. Yes.

Q. And this piece of glass? A. That is right.

Q. What, if anything, did Mr. Williams tell you about the ring that he purchased?

A. I went with him when he bought it.

Q. What did he say about it?

A. He had planned this thing, and we had talked it over, and I went—

Q. What did he tell you about the ring? That is what I am interested in now.

A. I had to have an engagement ring or some kind of a ring to wear, and it was almost the same size as my three-carat stone, because we had left the diamonds at the house; we did not take them.

Q. But what did Mr. Williams tell you in regard to this ring? A. I don't remember. [204]

(Testimony of Elizabeth J. Williams)

Q. Didn't he say anything to you?

A. He told me we were going down to buy it.

Q. When did he tell you that? That is what I am trying to find out.

A. I don't know the exact date, whether it was the day before we went or two days.

The Court: What did he say?

A. That we were going down to get a ring.

The Court: Is that all he said?

A. He asked me to go with him and told me why we were going.

The Court: What did he say?

A. That we were going down to get me a cheap ring to wear instead of my engagement ring.

Q. By Mr. Penney: What else did he say?

A. I don't recall.

Q. Did he come home from work some time and just say, "I want to go down and buy you a cheap ring"? Where did this conversation occur?

A. At home. He wasn't working at that time. He wasn't working. He didn't come home from work. He was at home all the time.

Q. Do you recall where you purchased that ring?

A. It was on the south side of Hollywood Boulevard. I don't remember what block. They had a display of cheap jewelry in the window. [205]

Q. Mrs. Williams, after the jewels were broken up, did you go down to San Diego with Mr. McAnally and Mr. Davis and meet Mr. Leitch, Art Leitch?

A. No, I didn't go down with Mr. Davis and Mr. McAnally. I went down, and Mr. Davis and Mr. McAnally brought me home.

(Testimony of Elizabeth J. Williams)

Q. You were in San Diego?

A. Yes, I had gone down the night before.

Q. And you were to meet Mr. Davis and Mr. McAnally by prearrangement, weren't you?

A. Yes, sir.

Q. Did you tell them where Mr. Leitch's place of business was?

A. Yes, sir.

Q. Had you seen Mr. Leitch from the time that the jewelry was broken up until you went to San Diego?

A. No, I hadn't.

Q. Did you know whether or not he was in the same place of business, when you went down?

A. No, I didn't know.

Q. Did you contact him in any way, by phone or otherwise?

A. I stayed all night with his sister Saturday night, and I saw him Sunday morning.

Q. Was that the first time you had seen Mr. Leitch from the time the jewelry was broken up until you went down [206] there to meet Mr. Davis and Mr. McAnally?

A. Yes, sir.

Q. And you met Mr. Leitch's sister; is that right?

A. Yes.

Q. Did Mr. Leitch have his place of business at the same address that it was when the jewelry was broken up?

A. Yes, sir.

Q. Where did you make arrangements to meet Mr. Davis and Mr. McAnally?

A. When Mr. Leitch broke up the diamonds his laboratory was on University Avenue up there, and later he bought a house just behind this same building on the alley, and that was where—that is where his laboratory is now and was when Mr. Davis and Mr. McAnally came down.

(Testimony of Elizabeth J. Williams)

Q. But you told Mr. Leitch, did you not, that Mr. Davis and Mr. McAnally were coming down?

A. Yes, sir.

Q. And you told Mr. Leitch that they were coming down to discuss the breaking up of some jewelry, didn't you?

A. No, I didn't.

Q. What did you tell Mr. Leitch?

A. I asked Mr. Leitch if he remembered breaking them up, and he said yes, and I said there were two men coming down to discuss it with him.

Q. And what date was that, if you can tell me?

A. I don't know. I don't know what date it was. [207]

Q. Then the following day you met Mr. Davis and Mr. McAnally, didn't you?

A. At Mr. Leitch's?

Q. Yes.

A. No, not at his laboratory, because his laboratory was on University Avenue at the time he broke the diamonds up, and later it was in the alley, and the only address I had to give Mr. Davis and Mr. McAnally was the University address, and I waited for them on University Avenue.

Q. And then the three of you went to Mr. Leitch's?

A. Then we walked down to his laboratory.

Q. And there Mr. Davis and Mr. McAnally and you and Mr. Leitch discussed the matter of the breaking up of the jewelry, didn't you?

A. Well, Mr. Davis asked him if he did, and he said yes, he did.

Mr. Davis: I object to this as incompetent, irrelevant and immaterial, occurring long after the transaction and investigation took place, and it doesn't prove or tend to prove any issue in the case.



(Testimony of Elizabeth J. Williams)

The Court: It shows bias and prejudice.

Mr. Penney: I will come to the point right away, counsel.

Q. Turn to page 31, line 23, and the answer on line 25. Will you read that, please? A. Yes. [208]

Q. I will ask you if you made this answer to this interrogatory, at the time of your deposition, on the 10th day of December last:

"Q.—Did you ever discuss this matter with Mr. Leitch since he broke up the jewelry?"

And did you answer, "No, sir."

Mr. Davis: Now, Mr. Penney, I am going to call this to the court's attention. When you impeach a witness—Do you have this before you, your Honor?

The Court: No. Usually I do, but I haven't it now.

Mr. Davis: The witness' attention should be called to the context as well as the specific question. And I further object to it as not an impeaching question or contrary to any testimony given by her.

The Court: What line?

Mr. Penney: Line 23.

Mr. Davis: Your Honor, to get the import of the matter, the whole page from top to bottom should be read.

Mr. Penney: All right.

The Court: You may show it to the witness.

Q. By Mr. Penney: Mrs. Williams, you testified here that there never was a robbery in Calexico. I will ask you now to look at the question on page 26, line 23, and the answer on line 25 through line 1 of page 27.

The Witness: Shall I read the whole thing?

Mr. Penney: No; just line 1. [209]



(Testimony of Elizabeth J. Williams)

Mr. Taylor: What line are you referring to, Mr. Penney?

Mr. Penney: I am starting on page 26, at line 23, and the answer on line 25, which ends on line 1 of page 27. Have you read the question and the answer?

A. Yes, sir.

Q. Did you testify in that deposition, in response to this question, as follows?

Mr. Taylor: If your Honor please, I want to make an objection to merely picking out one question and one answer, because this particular matter goes over to page 27, and merely to take the answer at the bottom of page 26 and refer to page 27 is not a true indication of what the answer of the witness was.

The Court: I think you can take the witness on re-direct, if you wish.

Q. By Mr. Penney: Was this question asked of you, and did you make this response:

"Q.—What did you state in Mr. Doyle's court, if you recall, in regard to these diamonds?

"A.—They wanted me to return the three-carat stone, and I told them that was a stone that figured in the robbery, and that I could not return it."

Did you so testify? A. Yes.

The Court: Have you got the reporter in that divorce case here? [210]

Mr. Penney: Your Honor, I am going to make a statement in connection with that. I worked on that Saturday afternoon. There were two reporters there, and I have had a very difficult time getting that transcript. I have called at least a half a dozen times.

The Court: I would like to see the divorce file in this case. Do you have an order of the presiding judge?

(Testimony of Elizabeth J. Williams)

Mr. Bledsoe: Yes. I was making arrangements to have the man over at 10:00 o'clock tomorrow morning. If the court wishes him tonight—

The Court: It doesn't make any difference. If we finish tonight, all right. I am not going to stay here all night.

Mr. Penney: As an officer of this court, I think I should make a statement at this time. I went out Saturday afternoon and worked with the reporter on the transcript, and when I asked her the question Sunday morning I had a memorandum of what the reporter had told me she had testified to, and when I got the reporter late yesterday I was taken by surprise by what she told me, and that is why I haven't the reporter here this morning.

The Court: Well, we have experts who can read shorthand notes, if the shorthand notes are available.

Mr. Davis: I understand that.

The Court: You to not have the reporter present?

Mr. Penney: I do not have the reporter, no. [211]

The Court: What are the names of the reporters?

Mr. Penney: There was a man by the name of Barr, and Alfreda Noland, and she was the one who went over her notes with me on Saturday afternoon.

Mr. Davis: A statement was made the other day implying that Mrs. Williams had testified—

Mr. Penney: According to the notes that were read to me, that was the testimony.

The Court: Counsel can straighten that out. We will find out. Let us get some subpoenas out here. Do you want her subpoenaed as the plaintiff's witness or whose? I want the reporter here with his notes.

Mr. Penney: I can have her here tomorrow.

(Testimony of Elizabeth J. Williams)

The Court: Let us have her and the other reporter too.

Mr. Penney: Mr. Barr?

The Court: Barr.

Mr. Penney: I checked with Mr. Barr, your Honor. I can have all the notes here, if you want them.

The Court: I think they all ought to be here. Will you subpoena them?

Mr. Penney: I told both reporters to be here. I will have to get a subpoena duces tecum for them to bring in their notes.

The Court: All right. Do you have a description of the notes, the dates?

Mr. Penney: Yes, I think I can give that. [212]

The Court: All right.

Q. By Mr. Penney: Mrs. Williams, when you went down to San Diego in May or June, 1940, what was said prior to the time of your going there, by you and by Mr. Williams?

A. You mean about having the diamonds broken up?

Q. Yes. What did you say about going to San Diego, what did you say and what did he say?

A. He asked me if I thought Art could do it, and asked me what kind of wheels he had, emery wheels he had. He said he wanted them broken up, and he didn't know anyone to do it, and he asked me about Art, and I told him.

Q. Did you call Art Leitch up?

A. No. We just drove down.

Q. Did you go down the same day this discussion took place?

A. He called me from the office that morning and asked me if I could be ready to go down that afternoon.

(Testimony of Elizabeth J. Williams)

Q. What time did you leave here?

A. Oh, about 11:00 or 11:30.

Q. You went direct to Leitch's laboratory?

A. No; we stopped at the boat first.

Q. How long were you there at the boat?

A. Not so very long. I don't know how long we were at the boat, but not long.

Q. Half an hour? A. Approximately. [213]

Q. And what time did you arrive in San Diego?

A. I don't know what time we arrived, but we were at the laboratory—I was at the laboratory approximately two or two and a half hours.

Q. What, if anything, did you tell Mr. Leitch when you arrived?

A. I took the things up and asked him if he would unmount them.

Q. What else did you say?

A. I didn't say anything to Mr. Leitch.

The Court: Didn't you say anything at all?

A. Well, some conversation.

The Court: What was it?

A. I asked him if he would unmount them, and he said he would.

The Court: Didn't he ask you why?

A. No, I don't remember him asking me why.

The Court: Had he ever done anything like that for you before? A. No, sir.

The Court: Was he in the business of doing it for other people? A. Not that I know of.

Q. By Mr. Penney: And Mr. Williams was waiting down in the car; is that right?

A. That is right. [214]

(Testimony of Elizabeth J. Williams)

Q. Turn to page 8, line 17 of your deposition. I will start with the question on line 12 and finish through 18.

The Court: Do you have the correction?

Mr. Penney: I have seen the correction. I want to ask her if she so testified, or if that is just a correction, your Honor. Have you read it?

A. Just a moment.

The Court: Have you read it?

A. Yes.

Q. By Mr. Penney: Mrs. Williams, at the time of your deposition last Sunday, I will ask you if these questions were asked you, and if you made at that time these answers:

"Q.—That is, when you went down to Mr. Leitch's laboratory?

"A.—You mean was anything said to Mr. Leitch or—

"Q.—Well, there was Mr. and Mrs. Jones there?

"A.—Yes.

"Q.—Yourself and Mr. Williams and this other man?"  
And did you answer, "Yes"?

A. At the top of the page, Mr. Penney, you said "Mr. Williams I presume," and I didn't answer, if you will read up there.

Q. All right. I will ask you that.

A. All right.

Q. "And who else were present besides yourself and Mr. [215] Leitch, and I presume Mr. Sydney Williams?

"A.—Mr. Jones and Mrs. Jones.

"Q.—Who were they?

"A.—Let me see if I can recall the other name. There was another name, Mr. Jones worked for Mr. Leitch, and also this other man, but I do not recall his name right off-hand.

"Q.—What, if anything, was said at that time?

"A.—Well—"

(Testimony of Elizabeth J. Williams)

The Court: Have you shown her the correction?

Mr. Penney: She has it there.

The Court: You will have to use the deposition.

Mr. Penney: The court has that. I am sorry. I knew she had made the correction here.

The Witness: I made the correction.

Q. By Mr. Penney: Did you testify originally the way that it is in the record?

Mr. Davis: You mean as corrected? I object to attempting to impeach her by anything other than the deposition as corrected.

The Court: Is that your testimony, the way it is now corrected? A. Yes, sir.

Q. By Mr. Penney: Let us turn, then, to page 10, and start in on line 17 and go through line 22 or line 24.

A. Starting on what line, did you say—17?

Q. Line 12, and go through line 24. [216]

A. Yes, sir.

Q. Mrs. Williams, at the time of the deposition were these questions asked of you and did you make the following answers:

“Q.—And then what did you do after you arrived there in San Diego, and was it daytime or nighttime?

“A.—The early afternoon.

“Q.—Did you go directly to Leitch’s place?

“A.—Yes, sir.

“Q.—And were all of these parties there at Leitch’s when you got there?

“A.—No, this fellow that I cannot recall his name and Mr. Leitch, were not there at the time we arrived.”

The Witness: Were not there?



(Testimony of Elizabeth J. Williams)

Q. I beg your pardon. That is my error. I will read it again:

"A.—No, this fellow that I cannot recall his name and Mr. Leitch, were there at the time we arrived.

"Q.—All right. What was said at that meeting?

"A.—We just asked Art to break them up for us.

"Q.—Well, did you ask, or did Sydney ask?

"A.—I asked."

Did you so testify?                      A. I did ask.

Q. Mrs. Williams, after this jewelry was broken up and put in this hiding place, whether it was under a board [217] or in a box, was it all put in there together?

A. At that time, yes.

Q. Every bit of the jewelry that is involved in this litigation here was put there; is that right?

A. Yes, sir.

Q. And you were worried about it?

The Court: Did you understand the question?

A. All the jewelry that was in the robbery was put in the box.

The Court: Was put in the box after you came back from San Diego?

A. Yes, sir. The unmounted stones, the rings and the watch were put in the box.

Q. By Mr. Penney: All put in together?

A. Yes, sir.

Q. And remained there until when?

A. Not so long. He took the ring and the watch out.

Q. Mrs. Williams, you were worried about having these articles in your possession, weren't you?

A. Yes, I was.

Q. You didn't want to get in any trouble over it, did you?                      A. Naturally not.

(Testimony of Elizabeth J. Williams)

Q. And Mr. Williams had requested you to turn these articles over to him, hadn't he?

A. No, I don't think so. [218]

Q. Didn't he threaten to have you adjudicated insane if you didn't turn them over to him?

A. At that time— There was no fighting hardly at that time. It was later that he did that.

Q. When did the fighting take place?

A. After we—

The Court: You mean literally fighting?

Mr. Penney: Yes, your Honor, literally fighting. She has spoken about it. I just want her to fix the time for me when she and Sydney got to fighting.

The Court: When was this divorce suit filed—do you know?

Mr. Penney: May 8, 1939.

A. Not the divorce suit.

The Court: May 8, 1940?

A. No. That is when we separated. The divorce—

Mr. Penney: October 8, 1940. You separated May 8, 1940; is that right? A. That is right.

The Court: It was while you were living in this state of separation that you made the trip to San Diego?

A. On the 3rd day of May— May I explain it to you?

The Court: Your testimony indicated that.

A. Yes, that is right.

The Court: We don't want to take up too much time with something you haven't testified to. [219]

The Witness: When we hid the stones—after we left San Diego Sydney was very mad at me because I had bought—

(Testimony of Elizabeth J. Williams)

The Court: I wasn't talking about that. I was talking about whether it was in the period you were separated, after May 8th, that you went to San Diego.

A. Yes, sir.

The Court: You have testified that it was the latter part of May or early part of June, 1940, that you went to San Diego?

A. That is right.

The Court: You testified yesterday that you had been separated and that he was living in an apartment, and he called you up and drove out to the house?

A. Yes, sir.

The Court: And when he came back from San Diego he continued to live separate and apart from you, did he?

A. He moved out of the house the 8th of May, and we went to San Diego maybe two weeks later. There had been no discussion about dividing the property.

Q. By Mr. Penney: When was it that Mr. Williams threatened to have you adjudged insane if you didn't return the jewelry?

A. After I came back from the east.

Q. When was that?

A. I was gone all of July, the month of July, and he had moved back into the house while I was gone and he lived [220] there while I was away.

Q. When did you return?

A. The last part of July.

Q. What did Mr. Williams tell you about returning these jewels to him?

A. Not at that time, but it was later, that if I didn't turn them over to him he was going to have me adjudged insane.

The Court: When was that? That is what counsel wants to know.

A. When was that?

(Testimony of Elizabeth J. Williams)

The Court: When did he tell you that, about when?

A. Sometime in August, I believe.

The Court: Was it shortly before the divorce suit was filed?

A. No; it was quite a while before the divorce suit was filed; I should say in August, as near as I can remember.

The Court: You took the ring and watch with you?

A. No, I didn't. I put them up in the maid's room.

The Court: While you were in the east?

A. After I came back.

Q. By Mr. Penney: On your return Mr. Williams told you he wanted these things, did he?

A. Not right away, Mr. Penney.

The Court: Which things?

Mr. Penney: I am speaking now about the jewels involved [221] in this alleged robbery.

The Court: You mean the unmounted stones?

Mr. Penney: That is right.

A. Not right away.

Q. By Mr. Penney: How soon after your return was it that he made a demand on you for them?

A. The latter part of August or the first of September.

Q. Did he call you up?

A. No; he came up to the house. He was at the house very often, Mr. Penney.

The Court: When you came back from the east, you moved in and he moved out?

A. He moved out again.

The Court: Right away?

A. Yes. And he came back home and stayed ten days, and then he moved in and out of the house all the time.

(Testimony of Elizabeth J. Williams)

Q. By Mr. Penney: When was the last time you saw these unmounted stones?

A. Can you tell me when the concerts are in the bowl? Well, I went to the bowl one night with our neighbors, and I don't know what month or what day it was, but I know it was in August or September.

Q. And upon your return to your home that night did you notice anything unusual? A. Yes, I did.

Q. What did you notice? [222]

A. The door from the back room into the dressing room had been cut open; the panel in the middle of the door had been sawed open.

Q. Then what did you do, when you saw that the panel had been sawed open?

A. I looked around the house to see if there was anything missing.

Q. Did you find anything missing?

A. Just the diamonds.

Q. Which diamonds?

A. The diamonds we had broken up in San Diego.

Q. Mr. Williams had a key to the house, didn't he?

A. Yes, and I had locked the door between the bathroom and the dressing room.

The Court: Did he have that key? A. No, sir.

The Court: Did you report that to the police?

A. No, I didn't, because there wasn't anything else gone.

Q. By Mr. Penney: Mrs. Williams, when you returned from Calexico on the first day of January, 1940, did you go over to the home of Mr. and Mrs. Conrad Lewbel?

A. No, we didn't. We went to see them, and they weren't home; they were over at some friend's across the street from the apartment.

(Testimony of Elizabeth J. Williams)

Q. Did you see them over there? [223]

A. Yes, sir.

Q. Did you tell Mr. and Mrs. Conrad Lewbel on that occasion, in substance or effect, that you and Sydney had been robbed of your jewelry while in Calexico?

A. It was Mr. Williams. He told the story to them.

Q. Do you recall a conversation with Mrs. Lewbel in which she asked you about your fur coat, and you stated, in substance or effect, that they didn't want that, because it would be hard to dispose of?

A. No, I don't remember. I was wearing my new coat, and they didn't take it.

Mr. Penney: May I have that last answer read, please?

(Answer read by the reporter.)

The Witness: My mink coat.

Mr. Penney: That is all.

### Cross-Examination

Q. By Mr. Davis: What do you mean by "they"?

A. I mean he reported the robbery, and naturally he explained to Mr. and Mrs. Lewbel that they didn't take my coat, because it would probably be hard to dispose of. He did the explaining.

Mr. Davis: That is all.

The Court: We will have a short recess.

(Short recess.)

Mr. Penney: Your Honor, I have one more question to ask the witness. [224]

The Court: Yes.

Q. By Mr. Penney: Mrs. Williams, in the fall of 1941, and during the progress of your divorce litigation with Mr. Williams, did you call him by phone and tell



(Testimony of Elizabeth J. Williams)

him, in substance or effect, that if he didn't give you certain bonds and stock by way of a property settlement agreement, that you were going to accuse him of presenting a false claim against the insurance company on this robbery?

A. I did not.

\* \* \* \* \*

Recross-Examination

Q. By Mr. Davis: Mrs. Williams, at that time you realized that you also had presented a false claim to the insurance company?

A. Yes, sir, I realized that.

Q. And for that reason you disclosed this matter to your attorney?

A. Yes, sir.

Q. And, through him, to the insurance company?

A. Yes, sir.

Q. Mrs. Williams, during the course of this conspiracy, I will call it, or this transaction that you and Sydney [225] Williams had, and up to the time you last saw these uncut diamonds, did you disclose the fact that you or Syd had these uncut diamonds, to anybody, any friend or relative?

A. Yes. I showed them to Mrs. Berrenberg.

Q. Who was Mrs. Berrenberg?

The Court: That was gone into yesterday.

Mr. Davis: I had forgotten.

Q. By Mr. Davis: Directing your attention particularly, did you write or tell your mother that you had these jewels?

Mr. Penney: To which I object as a self-serving declaration.

Mr. Davis: This is cross-examination.

The Court: Overruled. Read the question.

(Testimony of Elizabeth J. Williams)

(Question read by the reporter.)

A. I wrote my mother a letter from the east.

Q. What is your mother's name?

A. Mrs. Ida Horsman.

Q. She was in Los Angeles?

A. Yes, but she doesn't know anything about this.

Q. Do you know whether she received the letter or not? A. Yes, I know she received it.

Q. I hand you a letter, and let me ask you what it is, and then I will show it to Mr. Taylor. This is a letter which you and Mr. Taylor handed to me. I will ask you if that is the envelope in which you addressed the letter to your mother? [226] A. Yes, sir.

Q. Will you look at the contents and see if that is the contents of the letter you wrote to your mother?

A. Yes, it is.

Q. And, without stating the contents, say what was in the letter when you sent it to your mother, or in the envelope when you sent it to your mother.

A. That was the letter I wrote to my mother, and this is my will.

Q. There are two sheets to the letter here?

A. Yes. And this is an envelope that I put inside of that one.

Q. They were both in the same container?

A. Yes.

Q. Where did you get this letter before you gave it to Mr. Taylor? A. From my mother.

Q. From your mother? A. Yes, sir.

The Court: That will be marked for identification. What is the next number, Mr. Clerk?

The Clerk: No. 10.

(Testimony of Elizabeth J. Williams)

The Court: It will be so marked.

Mr. Penney: Are you going to introduce the will?

Mr. Davis: She said they were both enclosed in the envelope. [227]

Q. By Mr. Davis: Mrs. Williams, this letter is post-marked "Elkton, Maryland, July 5, 1940. The letter is headed Elkton, Maryland, July 4, 1940.

Your Honor, the letter is apparently— Is there anything in there except the last part that is—

Mr. Penney: I don't think it is material.

The Court: Nothing in the letter at all? Are you offering the letter in evidence?

Mr. Davis: I will offer them all in evidence.

The Court: And you object as immaterial?

Mr. Penney: That is right.

The Court: Objection overruled.

Mr. Davis: I will just read the letter. It may save a little time.

The Court: I am going to read it.

Mr. Davis: You will read it anyway?

The Court: Yes.

Mr. Davis: May I read one paragraph here and tell counsel that that is what I am offering?

The Court: All right.

Mr. Davis: This letter is addressed to "Dearest Mother & All," and is signed, "Love, Betty." The last paragraph says: "Will write tomorrow. Mama I am putting an envelope in to you, not to be opened unless something happens to me & it won't, so don't worry. Love, Betty."

I will hand this to the clerk. [228]

Enclosed in the letter is an envelope superscribed, "My last will. Not to be opened only in case of death. Eliza-

(Testimony of Elizabeth J. Williams)

beth J Williams." And in this envelope is a will, which I would like to read. It is dated Elkton Md July 4 1940

"My last will

I bequeath to my mother Ida Horsman, 836 W 53rd St Los Angeles Calif.

My insurance Policies (2)

1—3 carat unset diamond

1 (it looks like "2½" and the "½" scratched out) "c diamond. Diamond cigarette case 1 diamond watch 1—1 carat ring set in white gold. about 50 unset diamonds (small)

1 mink coat 1 *carcual* coat.

2 silver foxes. All of my *cloths* 12 service plates. Every thing that is personally mine small things.

To my husband Sydney M Williams the stocks that we have All of the furniture. our cars and the house which is to be sold at once. I want him to turn over to my mother \$5,000 in cash. The house is in Sydney and Elizabeth Williams name. After the \$5,000 he is to have the remainder. Mr. Williams is an attorney I want my mother also to have an attorney.

I want my mother to spend all the money she needs too. And also I want her to buy a home for herself and my sister [229] & brother in law Mr and Mrs L A Ellis

After my mother's death I want my sister Mrs L A Ellis to have the handling of the money for my niece Patricia D. Morrow At no time is my *siter* Mrs Fred Morrow to have any of the money. I want Patricia put in Private School, and I want my sister Mrs Ellis to see that she is and that she is to be clothed under her supervision. My sister and brother in law Mr & Mrs Ellis after my mother's death are to live in the house rent free

(Testimony of Elizabeth J. Williams)

until Patricia is in need of the money for her education, then sell the house and put the money in trust for Patricia. I want above every thing for her to go to Private School, and she must finish college other wise Lora is to have what is left. I want Patricia to have the advantage that I never had.

To my brothers and sisters I leave my wish for their happiness.

My diamonds are to be sold and that money used only by my mother if Mrs Ellis thinks it wise she must have a bank handle the money for Patricia.

This I insist on, mother to buy a home furnish it lovely and spend all she wants not to skimp on any thing because I believe she will receive enough on my fur & diamonds and the other money to be comfortable and she is not to loan money to any one other than in case of illness.

My husband may be very bitter about the \$5,000 in cash from the sale of the house but I have helped him work and [230] have tried to be a devoted wife

Signed

Elizabeth J Williams".

Q. By Mr. Davis: Now, Mrs. Williams, this will was written by you, in your handwriting? A. Yes, sir.

Q. On the date it bears, July 4, 1940?

A. Yes, sir.

Q. You refer here to 1 3-carat uncut diamond—unset diamond. What diamond was that?

A. It was my engagement ring.

Q. No—1 3-carat unset diamond.

A. It was my engagement ring, that Art had taken out of it.

(Testimony of Elizabeth J. Williams)

Q. It was the diamond that came out of the engagement ring? A. Yes, sir.

Q. What was this other one, 2-carat diamond?

A. I suppose I meant Syd's 2-carat stone.

Q. That was the stone that came out of Syd's ring?

A. Yes, sir.

Q. And the cigarette case was the one you testified concerning here? A. Yes, sir.

Q. In this court here? A. Yes, sir. [231]

Q. And the diamond watch, is that the watch you testified about here? A. Yes, sir.

Q. And is that the diamond watch that has been introduced in evidence? A. It is.

Q. And the 1-carat ring, is that a ring you have been testifying about here? A. Yes, sir.

Q. The one that has been introduced in evidence?

A. Yes, sir.

Q. Item No. 3? A. Yes, sir.

Q. When did your mother give you this letter and the will back? A. This morning.

Q. And at the time she gave it back to you was this envelope which contained the will sealed?

A. No. She had opened it, because she was so worried about me; she had opened it.

Q. Is your mother available?

A. She is very ill, Mr. Davis; my mother is very ill.

The Court: How old is she?

A. She is 74, but she just had a stroke.

Mr. Davis: I will offer these documents in evidence, your Honor. [232]

The Court: Admitted.

The Clerk: Plaintiff's Exhibit No. 10.

The Court: Is that all?



(Testimony of Elizabeth J. Williams)

Mr. Davis: That is all with this witness.

The Court: How did you happen to go on this trip?

A. My girl friend was going, and she wanted me to go along, and I was so nervous and I had been ill.

The Court: Did you discuss it with Mr. Williams?

A. Yes, sir.

The Court: Did he provide the money for you to go on the trip? A. He gave me the money.

The Court: Did you drive?

A. Yes, in an Austin car.

The Court: Both there and back? A. Yes, sir.

The Court: Do you know when Mr. Williams got the money from the insurance company?

A. I believe it was in March.

The Court: That was before you separated?

A. Yes, sir.

The Court: Did he tell you when he got it?

A. I knew, because—

The Court: Did he tell you? A. Yes.

The Court: You signed the check? [233]

A. Yes, I signed the check.

The Court: The check was made out to both you and him? A. Yes, sir.

The Court: And you signed the checks and handed them over to him? A. Yes.

The Court: In the meantime, you got the house or your living expenses? A. Not after we separated.

The Court: Until you separated? A. Yes, sir.

The Court: He did not provide any expenses for you after May 8, 1940? A. No, sir.

The Court: Did you have any money in your purse on the night of this supposed or alleged hold-up?

A. No, not that I recollect.

(Testimony of Elizabeth J. Williams)

The Court: Did you have any money at all in your purse?      A. I don't think I did.

The Court: Did you have a purse?

A. Yes, I had a purse.

The Court: Where were you carrying it?

A. Under my arm.

The Court: Under your arm?      A. Yes.

The Court: What kind of a purse was it? [234]

A. I don't remember which bag I carried.

The Court: Was it a big one or a little one?

A. I always had a large one.

The Court: What did you have in it?

A. You know, just—

The Court: Did you have a coin purse?

A. Yes.

The Court: How much money was in it?

A. Very little. I don't remember how much, because I never carried very much money.

The Court: How much money do you usually carry?

A. Three or four dollars.

The Court: Three or four dollars?      A. Yes.

The Court: When you reported the hold-up, or when the hold-up was reported to Mrs. Brown and Mr. Brown, did either one of them ask you whether or not the men did ask for your money?

A. No; I don't remember.

The Court: Did the policemen at Calxico ask you whether or not they had taken your money?

A. No.

The Court: Or asked for your money?

A. No, sir.

The Court: Or looked in your purse?      A. No.

(Testimony of Elizabeth J. Williams)

The Court: Did the insurance company man you talked to, Reynolds? A. No.

The Court: Did you ever talk to anybody from the insurance company about this hold-up? A. No.

The Court: Did anybody ask you, up until this moment, concerning what you had in your purse, or whether or not, in this alleged hold-up, somebody demanded your purse? A. I don't recall anyone asking me that.

The Court: All right.

### Redirect Examination

Q. By Mr. Penney: One question. The lady you went back on this trip with was Art Leitch's sister?

A. Yes, sir.

Q. Mrs. Williams, you have listed certain stocks and diamonds in this will. Now, when you prepared your cross-complaint in the action brought by Mr. Williams against you for divorce, did you list any diamonds in that cross-complaint?

Mr. Davis: I object to that as not the best evidence.

The Court: We are going to have those here, and I think we had better wait until we get the files over here, because, the more we talk about them this way the more confused we will be.

Mr. Penney: I was only asking for her recollection.

[236]

The Court: Go ahead, then. For the purpose of testing her recollection, the question is proper.

The Witness: Will you ask the question again?

The Court: The reporter will read it.

(Question read by the reporter.)

Q. By Mr. Penney: As community property?

A. I don't remember.

(Testimony of Elizabeth J. Williams)

Recross-Examination

Q. By Mr. Davis: I did want to ask a question or two, but Mr. Penney intervened, going on the theory that there wasn't any robbery. I didn't ask it, and I would like to ask her about her purse.

Where was your cigarette case?

A. In my coat pocket.

Q. You had that with you in Calexico on the night when you walked over to the Browns?

A. Yes; I believe it was in my coat pocket.

The Court: Was that taken? A. No.

The Court: Or was that reported as having been taken? A. Yes.

The Court: Was there any report made that they asked you to go through your pockets and see if you had anything in them? A. I don't recall.

Mr. Davis: It wasn't insured. If the court please, I [237] didn't offer these earlier, but it might help.

Mr. Penney: No objection to the introduction.

Mr. Davis: I have photostatic copies, to show—

The Court: They are admitted as Exhibit No. 11.

Mr. Davis: Those are the photostatic copies of the two drafts in payment of this loss.

The Court: And it is stipulated that whatever names appear on the back were endorsed by the persons who purport to have made them, and on or about or before the date the checks were paid?

Mr. Davis: Yes. The drafts themselves will show the dates they were paid.

The Court: When you got back from South Carolina, or whatever it was, in the east, wherever you were, when you got back to Los Angeles Mr. Williams was living in the house? A. Yes, sir.

(Testimony of Elizabeth J. Williams)

The Court: How many days did he continue to live in the house after you returned?

A. He moved out that night.

The Court: Did you ask him if the green box was still there?

A. No.

The Court: Did he say anything about it?

A. No, it was never mentioned.

The Court: Did you go up to see if it was still there?

A. No, I didn't. I don't remember if I did or not.

[238]

The Court: When did you first have any curiosity to see if it was still there, after he had been in the house for these several months that you had been separated?

A. Soon after I came back.

The Court: Was that the occasion when you showed them to Mrs. Berrenberg?

A. No; it was before that.

The Court: You went and got the box and showed them to her?

A. Yes, sir.

The Court: It isn't clear in my mind when you took out the watch and the ring.

A. Right after I came back from San Diego.

The Court: And you left them in the dressing room when you were east?

A. In the bedroom.

The Court: You left those in the maid's room, in the bedroom?

A. Yes, sir.

The Court: I don't understand.

A. The maid has a living room and a bedroom and bath, and I put it under the maid's bed. I took the diamond watch and ring and put them under the maid's bed.

The Court: Did you have a maid?

A. Not at that time.

(Testimony of Elizabeth J. Williams)

The Court: You just put them loose under the head of the [239] bed or on the floor under the bed?

A. The bed was just the size of the rollers from the floor, and I put them down in the corner of the bedstead. It was all just bedstead.

The Court: The corners were hollow?

A. No. I guess it was the corner.

The Court: You put that under the mattress there, or the box spring, or whatever it was? A. Yes, sir.

The Court: Down in the corner? A. Yes, sir.

The Court: Which corner?

A. Well, it was, I think—

The Court: The upper corner or the lower corner?

A. There was only one bedstead. There wasn't—

The Court: I am talking about the corner of the bed now. Which corner of the bed did you put them under?

A. The head of the bed.

The Court: Which one—right or left?

A. The bed was like your desk here, and I put it over on that corner.

The Court: Looking toward the head of the bed, you put it under the lefthand corner of the bed?

A. Yes, sir.

The Court: Did you tell your husband they were there? A. No. [240]

The Court: Did you tell anybody they were there?

A. No, sir.

The Court: Did he have anybody occupying those premises while you were gone, or do you know?

A. No, he didn't have, not that I know of.

Q. By Mr. Penney: When you returned, when did you go to look if they were there?

A. The following day.



(Testimony of Elizabeth J. Williams)

Q. And they were there? A. Yes, sir.

Q. And that was the day that you looked to see if the unmounted stones were in the box? A. Yes, sir.

Q. When was it that you showed these to Mrs. Berenberg—shortly after you got back?

A. Yes. She was over to spend a week-end with me.

Q. How did the subject happen to come up?

A. I was ill in those days, and things had been going on, and I was so nervous, and I was afraid of Syd.

The Court: How did you happen to get on the subject?

A. I just showed them to her.

The Court: You went and got the box out of the attic? A. Yes.

The Court: Did you show her where they were?

A. No, I didn't.

The Court: Did you tell her then that there had been a [241] fake hold-up? A. No.

The Court: What did you tell her?

A. I just showed her the unmounted diamonds.

The Court: What did you tell her about it?

A. I told her something happened. I don't know what I told her.

The Court: Did you tell her they were yours or Mr. Williams'?

A. No. She knew there had been a robbery. It was in the paper, and we just mentioned it. I hadn't told her it was a fake hold-up.

The Court: How long was that before you found the panel of the door cut out? A. Possibly three weeks.

The Court: Was anybody in the house that night when you found the panel cut out?

(Testimony of Elizabeth J. Williams)

A. I don't remember. Mr. and Mrs. Carr from next door, I don't remember whether I went out and told them—I don't remember whether they came up to my bedroom or not.

The Court: Did you tell them? A. Yes.

The Court: Did you tell them that night?

A. Yes, I did. [242]

\* \* \* \* \*

SYDNEY M. WILLIAMS,

heretofore duly sworn, upon being recalled, testified as follows:

The Court: Mr. Williams, you reported that \$96 had been stolen from you? A. Yes, sir.

The Court: How do you know it was \$96?

A. We had been to dinner just prior to that with the Browns, and I knew approximately how much money I had at the time. I said that was approximately it.

The Court: How much money did you take down with you?

A. I don't remember that—probably around \$150.

The Court: You had a pretty good idea at the time you made the claim how much money you had, didn't you?

A. Yes. I told them that, to the best of my recollection, it was \$96.

The Court: You didn't say that it was absolutely \$96?

A. No. It didn't matter, under the policy, anyway, because there was a \$250 limit, and the claim was much more than the \$250. That was under the floater policy.

The Court: Did you report to the Browns that they [243] relieved you of \$96?

(Testimony of Sydney M. Williams)

A. Yes, and also to the police department.

The Court: Did you tell them the denominations of the money? A. No.

The Court: You didn't? A. No.

The Court: What was it—\$100 bills, \$10 bills, \$50 bills, or \$20 bills?

A. I couldn't tell you what I had in my pocket, the denominations.

The Court: You know about how much money you have got in your pocket, roughly, don't you?

A. Well, I don't know.

The Court: Well, I just want to know.

A. I am not confident of it, no.

The Court: How much money did you spend for dinner that night? Did you pay the check?

A. Yes, I believe I did. It was not one of those very good places.

The Court: How much was it?

A. I don't remember. It has been so long ago.

The Court: Was it as much as \$100?

A. Oh, Lord, no. It couldn't have been over \$10 or \$12.

The Court: For the four of you? [244]

A. Yes.

The Court: Now, what did you tell the police about your wife's purse?

A. She didn't have a purse with her. She had her make-up in the pocket of her coat and didn't have a purse.

The Court: When these people held her up did they go through her pockets?

A. No. She didn't have her cigarette case, either, because when we got back to the hotel it was laying there,

(Testimony of Sydney M. Williams)

and Mrs. Brown said, "It is a good thing you didn't have your cigarette case with you."

The Court: Did they say anything to her about shell-ing out or giving them any money, or anything of that kind?

A. The very first thing, when this fellow said, "Don't get excited. Nobody is going to get hurt; all we want is your money and jewelry," she said, "Honey, don't argue with them."

The Court: Did you have your wallet in your hip pocket? A. Yes.

The Court: Did they take it out of your pocket?

A. No.

The Court: They let you reach for your hip pocket?

A. Yes, sir.

The Court: Did he have a gun?

A. The thin-faced fellow?

The Court: The fellow with the gun? [245]

A. Right in front of me, like this, and I reached in and handed it to him, and he looked at it quickly, and said, "Is that all the money you have got?" and I said it was.

The Court: Was this an old man?

A. No. I would judge they were 26 or 25 years old.

The Court: And one of them was a Mexican?

A. A Mexican, and the one with the full face was a white fellow.

The Court: The Mexican is the one who told you to hand over your jewels and money?

A. He did the talking.

The Court: I have no other questions.

(Testimony of Sydney M. Williams)

Cross-Examination

Q. By Mr. Davis: How was Mrs. Williams dressed that night?

A. She had on a mink coat and a black dress.

Q. She wasn't dressed in slacks?

A. No, not that night.

Q. At the time of the hold-up she wasn't dressed in slacks? A. Oh, no.

Q. Did you tell Mr. Reynolds at the time you made the report that she was dressed in slacks?

A. Not at the time of the hold-up.

Q. You didn't tell him that?

A. She was dressed in slacks when we went down.

[246]

The Court: Had she left her purse in the room?

A. I don't remember whether she had a purse with her. She very seldom would carry a purse when we would go out. She would put her make-up in the pocket of her mink coat.

The Court: Her combs and hairpins?

A. She would carry her lipstick and her powder case, compact.

Q. By Mr. Davis: What did he do about the wedding ring? A. What did who do about it?

Q. The robber?

A. This Mexican fellow asked her for it, and she said, "You have got everything you want, and I am going to keep this. You are going to have trouble if you try to take that off of me." And he said, "O. K., lady; keep it."

Q. Didn't she take it off?

A. No. And then he said, "Don't move for five minutes. If you do we will come back and get you."

(Testimony of Sydney M. Williams)

Q. She was pretty self-possessed that night?

A. Yes, sir.

Q. She wasn't excited at all? A. No.

The Court: Was she an excitable person?

A. No. If she gets angry, she is, but she throws things at you, tries to knife you or shoot you, and things like that. She has a violent temper. She has hit me over the head and split my scalp open, and cut my hands all up with [247] knives. And when I took my mother to try and get some clothes, she tried to brain my mother with an iron. She gets very violent.

Q. By Mr. Davis: What kind of a purse did she take to Calexico with her?

A. I don't remember any kind of a purse she took. I have no recollection of it. Probably it was a black purse, if she took any.

Q. You don't remember her taking any purse to Calexico?

A. I have no recollection of it one way or the other, sir.

Q. Didn't you tell Mr. Reynolds that she wore her diamond ring and the bracelet and that the watch was in her purse? A. I did not, sir.

Q. The day before, on the 30th? A. No, sir.

Q. You didn't make any such statement?

A. No, sir, because she wore all of it down there.

Q. Mr. Williams, at the time you made the report to Mr. Reynolds on the 2nd of January, 1940, you saw him regarding the information then, after you gave it to him, did you not? A. Yes.

Mr. Davis: I think that is all. [248]



(Testimony of Sydney M. Williams)

Redirect Examination

Q. By Mr. Penney: I have one question. Mr. Williams, in the fall of 1941, during the progress of this divorce action, did Mrs. Williams call you by telephone and tell you, in substance or effect, that if you didn't give her certain stocks and bonds and other property, that she was going to accuse you of collecting some money from the insurance company on an alleged fake hold-up?

Mr. Davis: I object to that as incompetent, irrelevant and immaterial, and not binding on the plaintiff. What passed between them might have been material as against them, but it would be self-serving as to the plaintiff.

The Court: The question is proper. The objection is overruled. Well, it is sustained, as far as the plaintiff is concerned, but overruled as far as the other defendant is concerned.

Q. By Mr. Penney: Yes or no.

A. Yes, she did make such a phone call.

Q. After she made that phone call, what, if anything, did you do in regard to imparting that information to the plaintiff company?

A. I immediately called Mr. Lewbel and instructed him to give that information to the insurance company.

Mr. Penney: That is all.

Recross-Examination

Q. By Mr. Davis: Mr. Lewbel was not the representative [249] of the insurance company, was he? He was a friend of yours?

A. Yes, but he represents all of the insurance companies.

Mr. Davis: I move to strike that.

(Testimony of Sydney M. Williams)

The Court: It may be stricken.

Q. By Mr. Davis: He is not a representative of the Continental Insurance Company, is he, and you knew it?

A. No, I don't know it. He represented the Continental many times, to the best of my knowledge.

Q. What do you know about him representing the Continental?

A. I couldn't give you any names, Mr. Davis. You probably could do that better than I could.

Mr. Davis: I move to strike that.

The Court: It may be stricken.

Q. By Mr. Davis: Do you know of any case in which he represented the Continental? A. No, I don't.

[250]

\* \* \* \* \*

BARBARA LEWBEL,

called as a witness in behalf of the defendant Sydney M. Williams, being first duly sworn, testified as follows:

The Clerk: State your name.

A. Barbara Lewbel.

The Clerk: Where do you reside?

A. 938 South Hobart Boulevard, Los Angeles.

Direct Examination

Q. By Mr. Penney: Mrs. Lewbel, you know Sydney Williams and Mrs. Williams? A. Yes, sir.

Q. Did you have occasion to see them on the first day of January, 1940? A. I did.

Q. Where did you see them at that time?

A. At my home.

(Testimony of Barbara Lewbel)

Q. Did you have any conversation with Mrs. Williams in regard to a hold-up in Calexico the day before?

A. I did.

Q. Did she tell you, in substance or effect, that there had been a hold-up in Calexico, in which their diamonds and jewelry had been taken?

A. She did.

Q. Did you have a conversation with her in regard to a mink coat she was wearing?

A. Yes, I did. [251]

Q. Did you tell her, in substance or effect, that it was a fine thing they hadn't taken the coat, and did she tell you, in substance or effect, that the coat would have been hard to dispose of after the hold-up and that was the reason they didn't take it?

A. That is just what she told me.

Mr. Penney: You may cross-examine.

### Cross-Examination

Q. By Mr. Davis: What time of day was it that you saw them on January 1, 1940?

A. I would think the time of day was late afternoon. We were almost ready to leave the house and pay a New Year's Day call.

Q. Isn't it a fact that you were visiting across the street and they came over there?

A. No; I don't recall that.

Q. You wouldn't say that that wasn't true?

A. No. I think we were at home, preparing to leave.

Q. You wouldn't be sure that you might not have been across the street?

A. I would be reasonably sure we were at home.

Q. At any rate, both Mr. and Mrs. Williams told you about this robbery?

A. That is right.

(Testimony of Conrad Lewbel)

Mr. Williams. Then I went on to Mr. Reynolds and reported it to Mr. [255] Reynolds, of Toplis & Harding.

Q. Do you recall about when it was that you made the report to Mr. Reynolds?

A. I told Mr. Reynolds of the conversation with Mr. Williams and Mrs. Williams, and I told Mr. Reynolds that, since the report had been furnished, that had been told to me, and I felt in duty bound to report it to him.

Mr. Penney: That is all.

Mr. Bledsoe: If the court please, our cross-examination of this witness will probably take some time, and I think we had better ask to have it go over.

The Court: Ten o'clock tomorrow morning, and Mr. Lewbel is instructed to return. You will have the County Clerk here; you will have him here at that time, and the two reporters. Recess until 10:00 o'clock.

(Whereupon an adjournment was taken until 10:00 o'clock a. m., the following day, Thursday, December 14, 1944.) [256]

Los Angeles, California, Thursday, December 14, 1944;  
10 A. M.

(Parties present as last noted.)

The Court: Continental against Williams.

The Clerk: I have the file from the Superior Court, from Judge Schmidt, your Honor. Shall I open it now? It was sent over from that court.

The Court: Yes. That may be opened now. Just a moment. Who brought the file?

Mr. Parker: I did.

The Court: All right. Swear the witness.

F. E. PARKER,

called as a witness in behalf of plaintiff, being first duly sworn, testified as follows:

The Clerk: State your name.

A. F. E. Parker.

The Clerk: And your address?

A. 218 North Garfield Avenue, Monterey Park.

Q. What is your occupation?

A. Deputy county clerk.

The Court: Of the County of Los Angeles?

A. Yes, sir.

The Court: You are here in response to a subpoena issued by this court?      A. Yes, sir. [257]

The Court: And you have brought with you certain documents and papers?      A. Yes, sir.

The Court: As indicated in the subpoena?

A. Yes.

The Court: You have the file with you?

A. Yes, sir.

The Court: What is it?

A. It is the file in the case of Williams against Williams.

The Court: Does either one of you wish to cross-examine with reference to it?

Mr. Davis: No, your Honor.

Mr. Penney: No, your Honor.

The Court: You may remain in attendance. I understand it is necessary for you to remain until it is returned to you. This file will be received in that envelope and marked as Plaintiff's Exhibit No. 12 for identification. Do you wish to cross-examine?

Mr. Penney: No, your Honor. But it occurs to me that there was a case which followed this one, which is really a companion case of this one, No. 474,457.

The Court: Was that mentioned in the subpoena? Is that a sealed file?

Mr. Penney: It is not a sealed file, but we don't have it. [258]

The Court: Do you wish it?

Mr. Davis: We might just as well have it here, as long as it is a companion case of this one.

The Court: Have you got copies of the pleadings?

Mr. Davis: No, I don't have.

Mr. Taylor: If the court please, we have a copy of the complaint and a copy of the answer and a copy of the notice of entry of judgment, and a copy of the findings of fact and conclusions of law.

The Court: And of the judgment. Is there any property settlement agreement mentioned in that?

Mr. Taylor: No, your Honor.

The Court: Was it mentioned in this case? Do you have copies of the files?

Mr. Penney: He has sufficient of the pleadings here to satisfy us.

The Court: Very well, if counsel will be satisfied with Mr. Taylor's copies in place of the originals.

Mr. Davis: Mr. Taylor, was any testimony given in that case?

Mr. Taylor: Yes.

Mr. Davis: Can you mention the names of the witnesses who testified in that case? I am just wondering if it was reported.



Mr. Taylor: I don't recall whether there was a reporter or not. I believe Mr. Williams testified and Mr. [259] Lewbel testified.

The Court: When was it?

Mr. Taylor: May 26, 1942.

The Court: I think we had better have the reporter.

Mr. Bledsoe: They may not have had a reporter.

Mr. Davis: We are trying to find out what this is all about. We are trying to find out whether there was any testimony taken and if there was a reporter.

Mr. Taylor: There was testimony taken. I do not recall whether there was a reporter or not.

The Court: Were you present?

Mr. Taylor: Yes, your Honor.

The Court: Was there testimony?

Mr. Taylor: Yes

Mr. Bledsoe: There was a motion for continuance, because of the illness of the defendant, and that was denied.

Mr. Taylor: That is correct.

The Court: There was a default of the trial, then, actually?

Mr. Taylor: The case went to trial, and Mr. Williams put on testimony, and, according to my notes, also Mr. Lewbel testified. I believe those were the two witnesses who testified on behalf of Mr. Williams.

The Court: Was there any testimony there concerning the property or these diamonds, cut or uncut, or settings?

Mr. Taylor: There was testimony concerning the value of [260] certain items of personal property, including one diamond pin and one diamond ring.

The Court: There was testimony?

Mr. Taylor: Yes, sir.

The Court: Do you want to get the reporter, or get the official file here or not?

Mr. Davis: I believe we ought to do that. We will check that file and see if there was a reporter.

The Court: Very well. While Mr. Parker is here the clerk can draw up another subpoena duces tecum, and we can issue it and serve it now, and he can go over and get the file and bring it back.

Mr. Davis: I think that would be a good thing.

The Court: The clerk will issue a subpoena and serve it. What was the number of that?

Mr. Taylor: 474,457.

The Court: If we get the minutes here, we can find out whether there was a reporter in attendance.

Mr. Taylor: I have a copy of the pleadings.

The Court: That is up to counsel. Does anybody wish to do anything with the files that have been marked for identification as Plaintiff's Exhibit No. 12? They are still sealed.

Mr. Davis: Perhaps at the recess we could go through them.

The Court: Do you want to offer them in evidence?  
[261]

Mr. Davis: Well, I have no objection to that.

The Court: But you don't know what they are?

Mr. Davis: I don't know what is material or what isn't material. I don't want to encumber the record too much.

The Court: Are you offering them in evidence?

Mr. Davis: I don't know, your Honor, until—

The Court: I am not going to look at them until somebody makes some move.

Mr. Davis: Very well.

The Court: I can't rule on whether they are material or immaterial until somebody makes a move to offer them in evidence. Otherwise I will be taking evidence *de hors* the record.

Mr. Davis: I don't know anything about these files.

The Court: The file is here, if somebody wants to offer it in evidence.

Mr. Davis: I don't know what is in there. I suppose that is the only way to get it.

Mr. Penney: Your Honor, I offer in evidence at this time the complaint, the cross-complaint, the findings of fact and the judgment.

Mr. Bledsoe: We will offer the balance of the file, by reference, of course.

The Court: Very well. The file is now open for both of you to look at it and determine whether or not you want to make any objection. [262]

Mr. Penney: I have no objection.

The Court: You may examine the file, to see if you want to make any objection. Do you wish to look at this?

Mr. Bledsoe: Yes, your Honor. If the court please, Mr. Lippett appraised these jewels, and he asked me if he could come down here at this time, and Mr. Penney has no objection.

The Court: All right. Put him on the stand.

EMANUEL M. LIPPETT,

called as a witness on behalf of the plaintiff, being first duly sworn, testified as follows:

The Clerk: State your name.

A. Emanuel M. Lippett.

The Clerk: And you address?

A. 739 South Ogden Drive.

Direct Examination.

Q. By Mr. Bledsoe: Mr. Lippett, you are engaged in the jewelry business? A. I am.

Q. And you were during the year 1939?

A. I was.

Q. And you did, during the year 1939, did you, appraise certain jewelry for Mr. Williams?

A. I did. [263]

Q. For the purpose of ascertaining its value?

A. Yes.

Q. You do not have a copy of your appraisal?

A. I do not.

Q. And without the copy of the appraisal or the original, you can't be certain about any of the articles?

A. I cannot.

Q. You do remember making the appraisal?

A. I do.

Q. Did you make the appraisal on the actual retail value or on the import value?

A. May I enlarge a little on the question?

Q. You can answer it.

The Court: Can you answer it yes or no?

The Witness: Will you repeat the question, please? (Question read by the reporter.)

A. I generally make an appraisal on the retail value.

(Testimony of Emanuel M. Lippett)

Q. By Mr. Bledsoe: Is that what you made in this particular instance? A. I believe I did.

Q. In other words, if you set up the valuation of a ring as \$300, that would be the retail market value?

The Court: What is the difference between the retail value and the import or wholesale value?

A. The difference would be about 35 or 40 percent, and the reason that the retail value should always be [264] invoked in an appraisal is because the insurance company has a clause that permits them to replace the merchandise or pay cash, and we always make it a practice to give the retail value, so that, if the insurance company wants to go out and buy it, that is their prerogative, and they can so choose.

The Court: It is customary to give the retail value, and the insurance company could replace it at wholesale?

A. They could.

Q. By Mr. Bledsoe: Sometimes it is impossible to reproduce an article?

A. It depends on the condition of the market.

Q. Do you recall when Mr. Williams purchased an emerald bracelet from you?

The Court: Emerald?

A. An emerald and diamond bracelet.

The Court: I think the description says it is an emerald and 84 diamonds. Item No. 4. 1 diamond and emerald bracelet.

Mr. Bledsoe: That is correct.

The Witness: May I see the description of it, your Honor?

The Court: I am handing the witness Exhibit No. 1.

The Witness: Thank you.

(Testimony of Emanuel M. Lippett)

The Court: You are referring to what item on that list?

Mr. Bledsoe: I am referring to item No. 4. [265]

The Court: What do you want to know about it?

Mr. Bledsoe: That is in his appraisal.

The Court: But this is the description. You asked him if he ever appraised it.

Mr. Bledsoe: If he sold it to Mr. Williams.

The Court: Referring to item No. 4, you sold that?

A. I did.

Mr. Bledsoe: I want to call the court's attention to the description of the item. I don't know if that was the witness' description. In other words, there is some discrepancy here, or will be, in the amount of diamonds.

The Court: He says he sold item No. 4. Do you remember how many diamonds were in that?

A. I do not, no.

The Court: About how many?

A. I do not know.

The Court: You don't know? Could it have been as many as a thousand diamonds?

A. No, sir. It could be as many as are described in item No. 4.

The Court: Is that usually the number of diamonds in a bracelet? A. No, sir.

The Court: How many are usually in it?

A. It varies according to design and pattern. But the design of the bracelet would indicate the cumulative [266] amount of diamonds.

Q. By Mr. Bledsoe: I show you, Mr. Lippett, a check dated 6/2/1939, in the amount of \$355, signed



(Testimony of Emanuel M. Lippett)

by Sydney M. Williams, to E. Manny Lipetz, and ask you if you received that on or about the date it bears, in payment of the bracelet?

A. This appears to be the check that I received in payment for the bracelet.

Q. You only received one check?

A. To the best of my recollection, I only received one check.

The Court: Do you want to offer it in evidence now?

Mr. Bledsoe: This is part of the Superior Court records and exhibits. I offer it in evidence, and it may be withdrawn at the conclusion of the case.

The Court: You can substitute a photostat.

Mr. Bledsoe: I will offer this in evidence.

The Court: It may be admitted in evidence, and the order is that the clerk will have it photostated, front and back, the original to be returned to the Superior Court files. That is a check dated when?

The Clerk: June 2, 1939.

The Court: And it was Defendants' Exhibit H in case No. D-198085 in the Superior Court of Los Angeles County. It is a check for \$355, and signed by Sydney M. Williams, and was made payable to E. Manny Lipetz.  
[267]

The Witness: It was made to E. Manny Lipetz, and at that time the name was Emanuel Lipetz.

The Court: You are the same person described here as E. Manny Lipetz?

A. I am, sir.

The Court: All right.

(Testimony of Emanuel M. Lippett)

Q. By Mr. Bledsoe: Mr. Lipetz, the fact that he purchased the bracelet for \$355 didn't have anything to do with your appraisal? I notice it is appraised at \$900.

A. I don't fully understand you.

Q. You appraised the bracelet later as being valued at \$900. In other words, the bracelet was sold on June 2nd and appraised on June 23rd.

A. To the best of my recollection that bracelet was turned over to me by a customer of mine, in my Santa Monica store, and she was quite in distress and was in need of money immediately, and I offered the bracelet to Mr. Williams, and explained to him the circumstances, and said that he might go out and have an outside appraisal. I believe the lady asked for \$300, and I charged the difference for my brokerage commission, but I did represent to Mr. Williams that the bracelet was worth far in excess of the amount, and assured him it was handled in protection of my customer. And I appraised it at about \$900 for replacement purposes.

Q. Do you recall whether or not, some time later, Mr. [268] Williams gave you a check for \$500 in further payment of the bracelet?

A. I have no recollection of such a subsequent payment.

Q. If he had paid \$855 for the bracelet, it would have been appraised at a higher figure by you, would it not?

A. If I appraised it at \$900, it must have been the replacement value.

Q. But the fact that it was appraised at \$900 would indicate to you that Mr. Williams had not paid \$855?

The Court: That is argument.

(Testimony of Emanuel M. Lippett)

The Witness: To the best of my recollection—I have no recollection of receiving an additional amount other than \$355.

The Court: You don't remember, or you don't think you did? A. I don't think I did.

The Court: Don't you keep books?

A. I did, and I went back, after receiving the subpoena, to search my books in 1939, and I haven't got records for 1939 or 1940. I have made two moves since then, and a lot of the records have been burned up. I will go on record as saying that this was \$355 retail price to Mr. Williams.

The Court: And that is what he paid for it?

A. To the best of my belief, that is what he paid.  
[269]

The Court: You have looked for those books?

A. Yes, sir.

Q. By Mr. Bledsoe: This was a cash deal, was it not?

The Court: What do you mean—cash—no credit?

Mr. Bledsoe: That is right.

A. Right.

The Court: Do you mean cash in hand, and not check? In other words, he paid you, at the time he received this article, the full price? A. Yes, sir.

The Court: And he received it on or about the date that check bears? A. That is right.

The Court: Did you sell many items of jewelry to Mr. Williams?

A. I sold him two or three items, two for sure, and one there is some doubt whether I handled the item or sold it.

(Testimony of Emanuel M. Lippett)

The Court: What other item?

A. That is an attachment to a watch.

The Court: A bracelet attachment to a watch?

A. To a watch.

The Court: Did you know him personally?

A. Yes, I did.

The Court: Did you know him well?

A. Not too well.

The Court: Did you have other business dealings with [270] him? A. No, I did not.

The Court: So that the only two business dealings you had with him were these two pieces of jewelry?

A. That is right.

The Court: And you don't know whether he paid you \$500 or more or not for this one piece of jewelry?

A. I think the retail price was \$355. I don't think so.

The Court: You think some of your books are burned?

A. Some were destroyed. I was at that time in the wholesale business and diamond importing from *Belgium*, in 1941, when our offices were invaded in Belgium, and I went into the retail business, and I had no cause to continue to keep any records. And I then moved out of the Metropolitan Building, to Santa Monica, and I took some files along, and I destroyed whatever files we didn't think we would need.

The Court: Prior to the time of selling the bracelet, you also sold a wedding ring to Mr. Williams?

A. I did.

The Court: Do you remember whether or not you sold a wrist watch attachment?

A. I have already told the judge that there was a question of a wrist watch attachment, and whether I had

(Testimony of Emanuel M. Lippett)

it for repairs or whether I sold it I cannot truthfully answer; I don't remember. [271]

Q. Referring to Plaintiff's Exhibit 4, a \$90 check, dated 5/12/1939, payable to yourself, could you tell us what you received that for?

A. I believe this was in payment for the wedding ring which I made for Mrs. Williams.

The Court: That is Exhibit number what?

Mr. Bledsoe: Exhibit No. 4, your Honor.

Q. By Mr. Bledsoe: The wedding ring was a diamond studded band?

A. It was a wedding ring designed for Mrs. Williams, that was studded, I believe, with 11 diamonds.

The Court: Is the wedding ring available now, so that this witness can look at it and say whether or not that is the wedding ring?

Mr. Bledsoe: No, your Honor.

The Witness: No.

Mr. Taylor: If your Honor please, I asked Mrs. Williams, and she says she does not have it with her.

The Court: Where is it?

Mr. Taylor: She says she does not know where it is.

The Court: When did you last see it?

Mrs. Elizabeth J. Williams: I had it until 1941, when I wore it, but I don't know where it is. [272]

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Cross-Examination.

Q. By Mr. Penney: Mr. Lippett, do you recall the name of the lady for whom you were handling this transaction? A. I do not, sir.

(Testimony of Emanuel M. Lippett)

Q. Do you have any independent recollection of the bracelet?

A. My best recollection is that my brother, who was managing my Los Angeles store, called me on the telephone and told me of this customer and made the valuation, and I told Mr. Williams about it, and he said he would be interested to see it.

Q. There was a difference at that time of around 35 percent between importer's price and retail price?

A. Yes, sir.

Q. And in June of 1939, within three weeks of this transaction, you appraised it at \$900, didn't you?

A. That is right.

Q. So that you couldn't have purchased it at importer's price for less than about \$600, could you, at that particular time?

A. I must explain. The lady was there and set her own price. I believe at that time the piece was worth around \$900, and I think Mr. Williams gave testimony that it was worth really about \$1500.

Q. My question is: You, as an importer, could not have purchased that for less than about \$600, could you, [273] around that figure?

The Court: You mean in the ordinary course of business?

Q. By Mr. Penney: In the ordinary course of business as an importer. A. Probably not.

Q. You were in the jewelry business at that time?

A. Yes, sir.

Q. Would it refresh your recollection now that Mr. Williams gave you a check for \$500, and then subsequently gave you a check for \$355, to complete the transaction?



(Testimony of Emanuel M. Lippett)

A. I am sure there was no other check than the \$355.

Q. Were the prices of precious jewels going up in 1939?

A. They were quite stabilized about that time. The prices commenced going up in 1941, after the invasion of Belgium. That was not only diamonds; it was mounted pieces, and this was manufactured, in my opinion, in 1927 or 1928, and that piece was mounted in platinum, and had emeralds in it, and it would not be easy to establish replacement value in 1939, because there would not have been many customers for that type of pieces.

Q. Would you increase or decrease the value of a diamond bracelet by breaking it up?

A. You would decrease it.

Q. This particular bracelet, what, in your opinion, would it be decreased in value, by breaking it up into loose stones? [274]

A. If I sold it for \$355, I must have taken into consideration that, had I broken it up, I would have gotten less than \$355.

Q. You subsequently discussed this matter, did you not, with Mr. Reynolds, of Toplis & Harding?

A. I had a telephone conversation with him, to the best of my recollection.

Q. You had appraised all of the jewelry that was covered by the policy?

A. Yes.

Q. Didn't you tell him, in substance or effect, that in 1940 you couldn't replace those articles for less than \$10,000?

A. I told him over the telephone that the insurance company couldn't replace the jewels that I appraised and secure any savings between what they had to pay the claim-

(Testimony of Emanuel M. Lippett)

ant in cash and the replacement value. I don't recall setting a figure of what it would cost him, unless he has a memorandum of it.

Mr. Penney: That is all.

Redirect Examination.

Q. By Mr. Bledsoe: I would like to ask a further question. Let us take item No. 5, the bracelet. The bracelet could have been identified, could it not, subsequently?

The Court: Item 5 or item 4? Item 5 is the ring.  
[275]

Mr. Bledsoe: Pardon me. Item 4—the bracelet—isn't that correct? A. That is correct.

Q. If the stones were taken out subsequently the stones could not have been identified, could they, of that size?

A. It would be very difficult to identify stones after they had been broken up.

Q. So, if a person wished to sell an article, and he wanted to know the type of article it was, if he took the stones out he could sell them, could he not, without having them identified?

Mr. Penney: I object, your Honor.

Mr. Bledsoe: I am asking him as an expert.

The Court: Well, do you have to have an expert to testify to that? [276]

\* \* \* \* \*

Mr. Penney: Your Honor, we are perfectly willing to stipulate that if Alfreda Noland were sworn and testified, she would testify that she is a qualified court reporter, that she reported the proceedings in the divorce action between Sydney M. Williams and Elizabeth J. Williams—

The Court: As an official reporter of the County of Los Angeles?

Mr. Penney: As an official reporter, and that she kept accurate notes; that her notes do not disclose that Mrs. Williams was interrogated on the question of a robbery, and that her notes do not show that Mrs. Williams ever made the statement to the effect that she lost any jewelry in a robbery.

Mr. Bledsoe: Or whether there was or was not a robbery at any time.

Mr. Penney: I accept the stipulation that she would so testify.

Mr. Bledsoe: We will stipulate further that Mr. Williams testified on the question of what jewelry he had, what the jewelry belonging to him consisted of.

The Court: The items mentioned in the complaint?

Mr. Bledsoe: With the exception of the diamond wedding ring, and with the exception of a friendship ring, that they were stolen in a robbery, and that he no longer had them, and that the robbery occurred on January 1, 1940, according to his testimony. [282]

The Court: Do you accept that?

Mr. Penney: No, I can't stipulate to that, because I have the exact words from the notes.

Mr. Bledsoe: With the exception of the wedding ring.

Mr. Penney: Here are the exact words that he testified, as follows: Betty and I were together in Calexico, and there was a hold-up, and the diamonds were taken from my purse, and there was insurance recovered on them, and that the diamonds referred to in that testimony is the same jewelry mentioned in the complaint herein.

The Court: Excepting the wedding ring.

Mr. Penney: That is right. And that we were here when the reporter stated this morning that she had misread the word "Betty" and had read it as "Sydney," when she went over the testimony last Saturday.

The Court: You understand Mr. Penney's stipulation?

Mr. Bledsoe: Yes.

The Court: Let us get this one rung of the ladder at a time. You stipulate to that?

Mr. Bledsoe: Sure. And he also testified that all the jewelry mentioned in the complaint, with the exception of the wedding ring, was his personal property and belonged to him, except further that he did give a friendship ring to his wife, but all the rest of it was his own personal property and did not belong to Mrs. Williams.

The Court: All right. Mr. Penney, let me see if I [283] understand Mr. Bledsoe's offer of stipulation. If I understand his offer of stipulation correctly, it is that, at the divorce trial, Mr. Williams testified, and the testimony was recorded by the reporter, Mrs. Noland, that the items of personal property, to-wit, jewelry, which are mentioned in this complaint, that at the time he bought them and at all times he had them in his possession, they were his separate property.

Mr. Penney: I have no objection, except item 2, 1 platinum diamond wedding ring.

The Court: And the friendship ring?

Mr. Penney: And the friendship ring.

The Court: With the exception of those two items—

Mr. Penney: I accept the stipulation.

The Court: Was there any testimony there concerning the disposition of the—how much money?

Mr. Penney: \$4,250.

The Court: Was there any testimony about that?

Mr. Penney: I have not gone over the notes. I understand from Mr. Williams that there was testimony to the effect that that money was used in business.

The Court: By the way, these stipulations which have been entered into up to now—let us just forget the statement Mr. Penney made at the present time—do you accept the stipulations which have heretofore been agreed to by counsel? [284]

Mr. Taylor: I accept them.

The Court: You accept those, but I anticipate you likewise indicate that you reject the stipulation just offered by Mr. Penney?

Mr. Taylor: Yes, I reject that. [285]

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JOHN MARCIN,

called as a witness on behalf of plaintiff in rebuttal, being first duly sworn, testified as follows:

The Clerk: State your name.

A. John Marcin.

The Clerk: And your address?

A. 3170 East Green Street, Pasadena.

Direct Examination.

Q. By Mr. Bledsoe: What is your business?

A. Chauffeur.

Q. Some time in the year 1939 did you sell a ring to Mr. and Mrs. Williams? A. I did.

Q. Could you tell us what kind of a ring it was, Mr. Marcin?

A. Yes, it was a diamond ring.

(Testimony of John Marcin)

Q. Do you recall how large the stone was in the ring?

A. It was close to a two-carat ring.

Q. Do you have a man's ring now?

A. Not with me.

Q. Do you have one?                    A. Yes, sir.

Q. How large is that?

A. That is about a three-quarter carat, 90-point, about.

Q. In respect to that ring, how large was the ring  
[286] you sold to Mr. Williams?

The Court: What difference does that make, if it isn't here?

Mr. Bledsoe: You mean what difference does the size of the ring make?

The Court: If his ring isn't here that he wears.

Mr. Bledsoe: I will let it go.

Q. By Mr. Bledsoe: Referring to Plaintiff's Exhibit 2, a check dated May 5, 1939, made payable to John Marcin, I understood that check was given to you on or about the date it bears, in payment for a man's ring?

A. Yes.

Mr. Bledsoe: That is all.

Cross Examination.

Q. By Mr. Penney: Mr. Marcin, Mr. Williams did buy a ring from you and pay you \$250 for it?

A. Yes, sir.

Q. You were working for him at the time?

A. No, sir.

Q. Have you ever worked for him?

A. No, sir. Yes, I worked for him on a boat.

The Court: Were you working at the time you sold the ring?



(Testimony of John Marcin)

A. No, not at the time. I worked through the garage man I was working for, for him.

The Court: You worked for a garage man? [287]

A. And we both went down and worked for him.

The Court: And you both went down and worked on the boat? A. Yes, sir.

The Court: Your immediate employer, then, was the garage man? A. He paid me.

The Court: I see.

Q. By Mr. Penney: Was this purchase on or about the time the check bears date, that is, the 5th day of May, 1939? A. Yes, about that time.

Mr. Penney: That is all.

The Court: Mr. Marcin, here is Plaintiff's Exhibit No. 8. This is a diamond ring that has been referred to as a friendship ring for identification, which has a diamond in it. How big is that diamond?

A. I don't know. It don't look very big to me, not as big as the diamond ring I sold.

The Court: You were talking about a diamond ring about it being two-carat?

A. I would judge it would be around two carats, something like that.

Q. By Mr. Penney: Is it a perfect stone?

A. That is something that I don't know.

Q. Is there any difference in value between a perfect stone and an imperfect stone? [288]

A. I guess there is.

Q. You don't profess to be an expert on diamonds?

A. No, sir.

Q. Have you ever sold any diamonds besides this one?

A. No.

(Testimony of John Marcin)

Q. Did you ever weigh that stone that you sold to Mr. Williams? A. I never did.

Mr. Penney: That is all.

Mr. Bledsoe: If the court please, I forgot to ask a question.

The Court: All right.

Redirect Examination.

Q. By Mr. Bledsoe: Did you tell Mr. Williams at the time you sold the ring to him that you wanted to get married and needed the money?

A. No, sir. I needed the money, but not to get married.

Q. You had been married for a good many years prior to that time? A. Yes, sir. [289]

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ELIZABETH J. WILLIAMS,

a witness heretofore duly sworn, upon being recalled, testified as follows:

The Court: This is under 43 (b)?

Mr. Penney: Yes, sir.

Direct Examination.

Q. By Mr. Penney: Do you know Mr. Nathan Horowitz, who is in court here? A. Yes, sir.

Q. Did you see him some time in 1942, at his office?

A. I don't know whether it was in 1942, but I have been to Mr. Horowitz's office.

Q. Did you go to his office approximately two years ago and, in substance or effect, state that Sydney had given you a dirty deal, and that you were going to get

(Testimony of Elizabeth J. Williams)

even with him, and ask Mr. Horowitz the name of the insurance company, and the amount paid under the description of the jewelry covered under the policy?

A. I did not. I went to Mr. Horowitz and asked him [290] the name of the company that the diamonds were insured with.

Q. And that is all that you stated to him at that time?

A. Yes, sir.

Mr. Penney: That is all, Mr. Horowitz.

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NATHAN H. HOROWITZ,

called as a witness in behalf of defendant Sydney M. Williams, being first duly sworn, testified as follows:

The Clerk: State your name.

A. Nathan H. Horowitz.

The Clerk: And your address?

A. 141 South Vista Street.

The Court: Los Angeles?

A. Los Angeles.

Direct Examination.

Q. By Mr. Penney: What is your business or occupation, Mr. Horowitz?

A. Insurance agent and broker.

Q. Where is your office located?

A. 548 South Spring Street, room 740.

Q. Are you the agent for the Continental Insurance Company, the plaintiff in this case?

A. I am.

Q. Did Mrs. Elizabeth J. Williams come into your [291] office approximately two years ago?

A. She did.

(Testimony of Nathan H. Horowitz)

Q. Did she tell you, in substance or effect, that Sydney Williams had given her a dirty deal, and that she was going to get even with him, and ask you the name of the insurance company, the amount paid, and the description of the jewelry covered under the policy?

Mr. Davis: I will object to that as not a proper impeaching question.

The Court: Overruled.

Q. By Mr. Penney: You may answer the question. Did she or did she not make that statement?

A. She did.

Mr. Penney: Cross-examine.

#### Cross Examination.

Q. By Mr. Davis: Mr. Horowitz, you say, in substance or effect, she said that. What did she first say when she came in to your office?

A. The exact conversation I don't recall, but I do recall that the effect and substance of the conversation on the visit to the office was inquiring regarding the—

Q. You say you can't recall the exact words?

A. The exact words, no.

Q. She came in and asked you first the name of the company?

A. I wouldn't say first, but in the course of the [292] conversation.

Q. And did you give her the name of the company?

A. I did.

Q. Did you give her the policy number?

A. I gave her the policy number.

Q. Are you sure about that?

A. Yes. The reason I remember it, I didn't have the file in my office, and it happened that the claim department

(Testimony of Nathan H. Horowitz)

of the Continental Insurance Company was next door to my office, and I went in there to find out if they had copies of the policies.

Q. Do they have the loss jacket in their office?

A. They keep the information in a jacket. There was a while I had the records, and my own records had the policy numbers, and, not having my own daily at the time, I didn't know what was the exact amount of the insurance involved on that particular policy or policies.

Q. Did you give her a copy of the policy?

A. No.

Q. You did give her the number of the policy?

A. Yes.

Q. And, in substance, she told you that she was going to disclose this fake robbery?

A. No.

Q. She didn't tell you why she wanted the information?

A. No. [293]

Q. She was more anxious to get the name of the company than anything else?

A. That is right.

The Court: Did she say anything at all about this being a fake robbery?

A. No.

Q. By Mr. Davis: You are a friend of Mr. Williams?

A. I am a friend of both.

Q. Of quite long standing?

A. No, I wouldn't say long standing. It was just a few years prior—the exact date I don't remember, but I have known them both. In fact, if anything, I think I knew them both about the same time.

Q. Let me ask you this, Mr. Horowitz: She told you that she wanted the policy, the name of the company—

A. That is right.

(Testimony of Nathan H. Horowitz)

Q. And in the course of the conversation she told you that Sydney had given her a dirty deal?

A. That is right.

The Court: Did you ask her how they were getting along? Did you ask her?

A. No. They were separated at the time.

The Court: And you knew that? A. Yes.

The Court: Did you ask her why she wanted the name of the company? [294]

A. She said she—

The Court: Did you ask her why she wanted this information?

A. No. She came in and said she wanted it, that she would like to have the name of the company, and that she was going to some attorney by the name of Taylor, who was going to handle her legal affairs, and that was the first time I had ever heard the name of Taylor. As I recall, she said he was in the Van Nuys Building.

The Court: That is the first time you had ever heard of a lawyer by the name of Taylor?

A. That is right. I presume she was referring to the man I have seen here in the courtroom.

Q. By Mr. Davis: She didn't reply to you at that time that she was going to tell Mr. Taylor that this was a fake robbery?

Mr. Penney: I object, your Honor.

Q. By Mr. Davis: Either in substance or effect, she did not state to you that she was going to tell Mr. Taylor that this was a fake robbery? A. No.

Q. And she didn't tell you that this was a fake robbery? A. No.



(Testimony of Nathan H. Horowitz)

The Court: When did you first learn of that accusation on her part, the accusation against Mr. Williams that this [295] was a fake robbery?

A. I didn't hear about it until it came up through the insurance company, I believe. The exact time I don't know, but I believe it came through from the adjuster who was handling the loss for the company. I think it was probably Mr. McAnally, if I remember right, an adjuster in the employ of the Continental at that time.

The Court: You wrote this insurance?

A. Yes.

The Court: Did you get an appraisal on these articles?

A. No.

The Court: You didn't receive one?

A. Yes, but I didn't get it. We got the appraisal in the course of writing the policy.

The Court: You received it from whom?

A. From Mr. Williams.

The Court: From Mr. Williams?                      A. Yes, sir.

The Court: Was he an appraiser?                      A. No.

The Court: Who was the appraiser?

A. I don't know who was appraiser. However, I just saw a daily Mr. Davis showed me, that had a name on it of Lipetz, or something like that.

The Court: Did you receive a written appraisal?

A. Yes. [296]

The Court: What did you do with it?

A. Turned it in to the policy writer of the policy, to send it along with a copy of the policy to the San Francisco office.

The Court: You don't keep it in your file?

A. No, because the appraisal is copied right onto the policy and clipped to the policy itself.

(Testimony of Nathan H. Horowitz)

Q. By Mr. Davis: In the usual course of business, when a loss is paid, the home office destroys the policy? I will withdraw the question.

The Court: Where does that leave the reporter?

Q. By Mr. Davis: You represent other companies besides Continental? A. That is right.

Q. And you report on all insurance you write for the Continental to the Los Angeles office, and they, in turn, report to the San Francisco office?

A. I did at that time. I can qualify that. You are referring only to the all-risk business and personal property?

Q. Just so we get the relationship straightened out. The Mr. McAnally you referred to was the company's adjuster?

The Court: He didn't refer to McAnally.

Mr. Davis: Yes, he did.

A. At that time he was.

Q. By Mr. Davis: And Toplis & Harding are independent contractors? [297]

A. I would like to say one thing. McAnally was not the adjuster at the time of the loss. The adjuster then was Frank Bangs, who passed away.

Q. Mr. McAnally was the adjuster at the time the question of the fake robbery came up?

A. That is right. [298]

\* \* \* \* \*

CONRAD LEWBEL,

a witness heretofore duly sworn in behalf of the defendant Sydney M. Williams, upon being recalled, testified as follows:

Cross Examination.

Q. By Mr. Bledsoe: Mr. Lewbel, you are in the business of assisting private individuals who have claims against insurance companies?

A. I am sorry. I didn't hear you. I am a little hard of hearing.

Q. Mr. Lewbel, you assist private individuals to present claims to insurance companies?

A. I don't quite understand the question.

(Question read by the reporter.)

A. I am acting as an appraiser and assist in making claims, and I am called in by individuals, as well as insurance adjusters or insurance companies or attorneys. I am subject to call by anyone.

Q. How long have you known Mr. Williams?

A. I do.

Q. How long have you known him?

A. I would say since about, possibly 1936.

Q. You have assisted him, have you not, in preparing claims to present to insurance companies?

A. When you use the plural, I would say no. I assisted him in preparing a claim on a fire loss to the insurance company. [299]

Q. Didn't you also assist him in a smoke loss, prior to that time, in filing a smoke loss claim?

A. No. I represented the insurance company when there was smoke damage from a fire in an adjoining

(Testimony of Conrad Lewbel)

building. Mr. Williams was the owner of the premises at the time, but I was called in because of an argument between Mr. Williams and the insurance adjuster, and I was called in by the adjuster and paid by the insurance company, through the adjuster.

Q. In 1939 you had considerable business dealings, outside of insurance, with Mr. Williams, did you not?

A. In 1939?

Q. Yes.

A. I don't remember anything. I might have had some dealing with him, but I can't remember.

Q. Do you remember his account with Hutton & Company? Do you remember that he was indebted to Hutton & Company for \$15,000 or \$18,000, in the latter part of 1939?

A. I don't know much about his stock transactions with Hutton & Company.

Q. You endorsed a note for him at the bank, did you not?

A. In 1939?

Q. Around there.

A. I don't remember. I don't know.

Q. Do you know whether or not you endorsed a note for [300] Mr. Williams in the sum of \$5,250 at the California Bank, to be paid to Hutton & Company, so they would not close his account?

Mr. Penney: That is objected to, your Honor.

The Court: It is compound. Objection sustained.

Q. By Mr. Bledsoe: Do you remember signing any note for Mr. Williams?

A. Possibly. I had loaned Mr. Williams some money, and I had some business with the California Bank, I

(Testimony of Conrad Lewbel)

think. I don't know whether I signed the note or not, but I did assist Mr. Williams; I know that.

Q. You endorsed a note for Mr. Williams at the California Bank, didn't you?

A. I might have. I really don't know. I would have to check.

Q. You received about \$2500 from Mr. Williams, didn't you?      A. All I know—

The Court: When, counsel?

Mr. Bledsoe: I was speaking about the year 1939.

A. I don't remember anything in 1939. As a matter of fact, I am fairly certain there was nothing in 1939. I know that after Mr. Williams' divorce proceeding went on he was having money trouble, was short of money, and he told me his funds were tied up, and I had loaned him some money to help him out at the bank at the time, because the bank had a [301] mortgage on some property. I don't know just what the transaction is, but I did help him, and probably that was either in 1940 or 1941.

Q. Did you owe him any money in 1939?

A. I don't remember any.

Q. You received stock, did you not, from Mr. Williams, in the early part of 1940?

A. I would say no. He turned over some stock to me, because I had loaned him some money, and then, when Mr. Williams couldn't pay the loans back, he cashed the stock and paid me back.

Q. When did you handle the Claudette fire loss, Mr. Lewbel?

A. I don't know the exact date, but I would say I think it was sometime in late February or early March, 1939.

(Testimony of Conrad Lewbel)

Q. There was a large sum of money paid upon that claim; is that correct?

A. I don't know whether you would call it large. By comparison with other fire losses, I would call it small, but it was a substantial amount of money.

The Court: How much?

A. I think the stock damage was \$10,000, but I am not at all certain of it, and I think the fixture damage was in the neighborhood of about \$1,000.

The Court: Altogether about \$11,000 involved in the adjustment? [302]

A. In that fire loss adjustment.

Q. By Mr. Bledsoe: After the Claudette fire you had considerable business dealings with Mr. Williams, did you not?

A. I don't think I had any business dealings with Mr. Williams after the Claudette fire until sometime in 1940, but I am not at all certain about it. I would have to check the records.

Q. Did you assist Mr. Williams in this matter?

A. In what matter?

Q. The recovery for the—

A. This particular case?

Q. This particular case.

A. No, I did not assist him other than taking him up to Mr. Reynolds' office. I told Mr. Williams I didn't handle these sort of losses. I took him up to Mr. Reynolds' office and told Mr. Reynolds I knew him, and that he had a very nice reputation, and anything he could do for him I would appreciate.

Q. Did you also tell Mr. Reynolds that he could write his check at any time for \$25,000?



(Testimony of Conrad Lewbel)

A. I told Mr. Reynolds that he was worth a fair amount of money, that he was in fair financial shape. I don't remember telling Mr. Reynolds that he could write his check for \$25,000, because I didn't know whether he could or not. [303]

Q. You did know at the time you spoke to Mr. Reynolds that Mr. Williams was heavily indebted?

A. Not that I know of.

Q. What did you endorse the note at the bank for?

A. I don't know a thing about the note at the bank. I would have to check over the records. Really, I don't know or have no recollection at this time. I don't think I signed a note at the bank, unless at that time I had loaned Mr. Williams some money, or Mr. Williams had to get some money to pay an indebtedness.

Q. You remember receiving some stock from the bank, do you not?

A. I received stock from Mr. Williams. I don't remember receiving any from the bank.

Q. Did you receive 700 shares of New York Central stock from the bank?

A. I think some shares were turned over to me by Mr. Williams. I don't recall that they were turned over to me by the bank.

Q. And you got 100 shares of Santa Fe stock?

The Court: Did he get 100 shares of New York Central?

Q. By Mr. Bledsoe: Did you get 100 shares of New York Central stock from Mr. Williams?

A. I think there was some New York Central shares involved, and some Santa Fe. I have no recollection of the exact amount. I would have to go to the bank and check [304] with them.

(Testimony of Conrad Lewbel)

Q. How many times did you go to see Mr. Reynolds in regard to this particular loss here?

A. I saw Mr. Reynolds shortly after the loss occurred, and then I went up with Mr. Williams to see Mr. Reynolds. I think Mr. Williams had an appointment with Mr. Reynolds, and I went up with him, and then I didn't see Mr. Reynolds in connection with this loss—I do see Mr. Reynolds often on the street and in his office, and I have business with his office, but in connection with this loss I don't think—I don't know whether I did see him once again when he was in his office and asked him what sort of progress was being made. But I did speak to him in connection with this loss after I had spoken to Mrs. Williams, I think in Commissioner Doyle's court, at which time I gave him the information which I testified to.

Q. You were present in Commissioner Doyle's court at the time you refer to?

A. I had been subpoenaed there by Mrs. Williams' attorney, I believe.

Q. Did Mr. Williams at that time state that there were several loose stones that Mrs. Williams had?

\* \* \* \* \*

A. No, he didn't.

Q. Was it mentioned that there were loose stones?  
[305]

A. There was no mention at all. Mr. Williams told me, prior to going up to court, that he had heard that Mrs. Williams said she knew the whereabouts of the jewels that were supposed to have been taken in this robbery. That is the only information Mr. Williams gave me. And then I asked Mrs. Williams whether there was any truth to the fact that she knew where the jewels were

(Testimony of Conrad Lewbel)

which were supposed to have been taken in this hold-up or robbery, and she told me there was no truth to it, that she was just saying it to frighten Mr. Williams, and I went back and repeated that conversation I have told to Mr. Reynolds.

Q. That conversation you have just related?

A. Yes, sir.

Q. You are certain of that?

A. I am certain I went back to Mr. Reynolds and told him I had heard from Mr. Williams that Mrs. Williams had made the statement, and that I had questioned Mrs. Williams personally, and she denied making that statement and said that she knew nothing about the jewels, but I felt that I was in duty bound to report that fact to Mr. Reynolds.

Q. You stated that Mr. Williams sent you a communication that Mrs. Williams had stated that the robbery might have been a fake. When did he send that communication to you? [306]

\* \* \* \* \*

Q. By Mr. Bledsoe: My question is—and I will withdraw the former question—How did you receive that communication?

A. I received that from Mr. Williams.

Q. Was it by letter?

A. No; I think he told me in person, or over the phone. I think he told me in person.

Q. How long before the Doyle hearing?

A. I think the day of the Doyle hearing.

Q. Well, what time of day?

A. I don't know whether—I attended the hearing—I made no record of it—I think I attended the hearing

(Testimony of Conrad Lewbel)

in the morning or the afternoon, but I know I attended the hearing, and Mr. Williams told me just before then, on the same day. He either telephoned me or told me in person. I am sure he told me before I went to the court house.

The Court: Counsel, I wonder if I might fix in my mind the date of the Commissioner's hearing? [307]

Mr. Davis: We haven't seen it yet, your Honor.

Mr. Bledsoe: The witness is referring to the Doyle hearing.

The Court: You just spoke about Commissioner Doyle's hearing. That was the conciliation hearing?

A. This was before Commissioner Doyle.

The Court: Or Rosalind Goodrich Bates?

A. I know I was subpoenaed to be there. I may be mistaken in the name.

The Court: It was a man?

A. Yes, it was a man, your Honor.

Mr. Penney: Mr. Barr advises me that he was the court reporter in the divorce action between Sydney Williams and Elizabeth J. Williams, that he was a duly qualified reporter, and that he would testify that his notes are accurate, and that his notes do not disclose that Mrs. Williams was asked any questions pertaining to any robbery in Calexico, and that there was no testimony on her part relating to it at that time.

Mr. Bledsoe: That is all right.

The Court: Was there any testimony that she still had them?

Mr. Penney: Was there any testimony in your notes that she still had them?

The Court: Any loose jewels?

(Testimony of Conrad Lewbel)

Mr. Barr: That I didn't look up. [308]

The Court: You haven't looked that up?

Mr. Barr: No, your Honor.

The Court: All right.

Mr. Penney: Will you stipulate that she made no such statement at that time, that she had any loose jewels in her possession, at the time of the hearing on the divorce action?

The Court: If she wasn't asked, she made no statement.

Mr. Bledsoe: She could have been asked and not said.

The Court: Was there any testimony by Mrs. Williams to the effect that she had loose diamonds?

Mr. Taylor: Mrs. Williams advises me, your Honor, that there was no testimony given at that time by her on that question.

The Court: You will all stipulate to that?

Mr. Penney: I will accept the stipulation.

Mr. Bledsoe: Yes, your Honor.

The Court: Mr. Barr, I think you may be excused.

Q. By Mr. Bledsoe: You were present in Mr. Doyle's court when Mrs. Williams testified?

The Court: Let us fix the time of that.

Mr. Penney: I have no way of knowing, because I didn't come into this case until afterwards.

Mr. Davis: I thought you were a better searcher than I was. I think there are a few references to the jewels in there.

The Court: All I want to know now is the date of Commissioner Doyle's hearing. And I want to relate it with [309] the other testimony, as well as her information to her lawyer, and the commencement of this suit. Other-



(Testimony of Conrad Lewbel)

wise it has no value. Do you know the date of this hearing?

A. I do not, your Honor. I think it was in the spring of 1941.

The Court: The spring of 1941?

A. I think that is it. I may be mistaken.

Mr. Penney: The 4th of August, 1941.

The Witness: Was it August, 1941?

The Court: Well, it was in the spring some time.

Mr. Penney: That is, late spring, your Honor?

The Witness: Was it Commissioner Doyle?

The Court: I don't know.

The Witness: Was it Commissioner Doyle?

Mr. Penney: Yes, your Honor, Commissioner Doyle.

The Court: Now, if you will ask your question, I want to make some sense out of it.

Q. By Mr. Bledsoe: At the time of the hearing we are referring to, in August, 1941, you heard Mrs. Williams testify that she could not return a 3-carat stone to Mr. Williams?

A. Mrs. Williams testify?

Q. Yes.

A. I don't remember any testimony. I don't know anything about the testimony. I wasn't paying much attention to it. [310]

Q. Did you hear her say—

The Court: Was your hearing impaired at that time?

A. It was worse than it is today. It is a hundred percent improved now. I was then hearing very, very poorly, and I had an operation a year ago in June, and I have recovered most of my hearing. But I paid no attention to the testimony, because it didn't mean anything to me.



(Testimony of Conrad Lewbel)

Q. By Mr. Bledsoe: Now, Mr. Lewbel, didn't you tell Mr. Reynolds some time during the month of August, 1941, when you spoke to him the second time, that there was a divorce proceeding going on between Mr. and Mrs. Williams, and that there was liable to be some fireworks between the two of them, and that, if anything developed in regard to the payment of the loss, you would come back and let him know?

A. No, that isn't the words of what was said. I can tell you what was said. When I reported this to Mr. Reynolds, Mr. Reynolds and I discussed Mr. and Mrs. Williams' divorce proceeding, and I told him that there was a bitter battle between the two, over which I felt badly, and Mr. Reynolds agreed with me and said that, in all probability, Mrs. Williams is very jealous and would probably do anything or say anything, and that he did not attach any importance to this information, that he felt that the robbery was a robbery, and the value paid represented truly less than the value of the items. And Mr. Reynolds then told me that he would appreciate it if Mr. Williams would ask at the divorce [311] proceeding about these jewels that Mrs. Williams said at one time she knew the whereabouts of, and then denied knowing, and, if she denied knowing the whereabouts of the jewelry at the time of the hearing, at the time of her testimony, and said there was a robbery, then he could skip it, but if she admitted knowing about the jewelry, if she was asked, to please come back and give him that information.

Q. Didn't you tell him there wasn't anything to it?

A. I didn't tell him anything at all about there being nothing to it. I told him there was a battle between these two people, and I related the conversation as I have given

(Testimony of Conrad Lewbel)

it to you. I also gave him—I met Mr. Reynolds and told him that question had been asked in court, according to Mr. Sydney Williams, and that Mrs. Williams answered that there was a robbery, and therefore she couldn't know where the jewels were, and that is the last of that conversation I had.

The Court: Mr. Williams did tell you that Mrs. Williams had been asked about the robbery?

A. That is correct.

Q. By Mr. Bledsoe: And did you tell Mr. Reynolds that?

A. I did. I met Mr. Reynolds and told him that.

Mr. Penney: I am not going to interpose an objection, but he put this witness on for rebuttal testimony, and I presume they will show by his testimony now—

The Court: You haven't rested yet. [312]

Mr. Penney: But they are calling him as their own witness.

Mr. Bledsoe: For cross-examination.

Mr. Penney: They have gone into a lot of matters that we should not be bound by.

Mr. Bledsoe: He testified about a communication he received from Mr. Williams, and that he went down to see Mr. Reynolds.

The Court: I think the door was opened.

Mr. Bledsoe: I am merely trying to cross-examine Mr. Lewbel.

Q. By Mr. Bledsoe: Mr. Lewbel, what time on January 1st did you see Mrs. Williams at your home?

A. They came to my house in the late afternoon of January 1, 1940.

(Testimony of Conrad Lewbel)

Q. Two or three o'clock?

A. It might have been three or four or five o'clock.

Q. Did Mr. Williams come directly to your house from Calexico?

A. I don't know whether they came directly or not, but Mr. and Mrs. Williams came together, and they said they had come in from Calexico.

Q. Did they tell you they had left the night before?

A. I don't remember.

Q. Was there any mention of what time they left Calexico? [313]

A. If they did, I don't remember it.

Q. Did they mention that they were in Calexico the morning of January 1st?

A. I don't remember. I think they stayed in Calexico over night, but that is just a wild guess; I wouldn't know. I knew they said they came back from Calexico.

Q. Did Mr. Williams tell you that that morning he had gone to the police station in Calexico?

A. What is that?

(Question read by the reporter.)

A. I don't remember that. They saw me late in the afternoon and told me about the robbery, and they told me they had gone to the police and reported the robbery, if that is what you mean.

Q. You are certain it was January 1st?

A. I am pretty sure it was January 1, 1940.

Q. Did you go to the Rose Bowl game on January 1, 1940?

A. It was New Year's Day, 1940, January 1, 1940.

Q. Did you go to the football game that day?

A. No.

(Testimony of Conrad Lewbel)

Q. You had some tickets to go to the game, didn't you?

A. I don't know, but we didn't go to the game.

Q. You had planned with Mr. and Mrs. Williams to go to the game, a few days before?

A. I don't know anything about that. I know I didn't [314] go to the football game.

Mr. Bledsoe: That is all.

Cross Examination.

Q. By Mr. Penney: Does your wife make social engagements for you, or do you make them yourself?

A. My wife makes the engagements for me.

The Court: And you keep them?

A. Whenever I do, I get into trouble. [315]

\* \* \* \* \*

PEARL E. BLEWETT,

called as a witness in behalf of defendant Sydney M. Williams, being first duly sworn, testified as follows:

The Clerk: State your name.

A. Pearl E. Blewett.

The Clerk: And your address?

A. 608 South Hill Street.

The Court: Los Angeles?

A. Yes, sir.

Direct Examination.

Q. By Mr. Penney: Is it Miss or Mrs. Blewett?

A. In business, it is Miss Blewett.

Q. What is your business or occupation?

A. I have quite a big stenographic service, letter shop and notary public business.

(Testimony of Pearl E. Blewett)

Q. At 608 South Hill?

A. At 608 South Hill. I have been on that corner for 22 years.

Q. Were you a notary public in 1940? [317]

A. Yes, sir.

Q. I will ask you to examine these two documents, Plaintiff's Exhibits 5 and 6, and state whether or not that is your signature.

A. Yes, it is.

Q. As notary public, on those two documents?

A. That is right.

Q. Do you keep any permanent records of acknowledgments you take on instruments?

A. I keep a record of every notary I take.

Q. Do you have that record with you in court at this time?

A. Yes, I have it here. That is on the 19th.

Q. Will you read into the record here what your permanent record of acknowledgements shows on the 19th of February, 1940?

A. Proof of loss by Sydney M. Williams and Elizabeth J. Williams, to Continental Insurance Company, *in re* hold-up. Paid 50 cents.

Q. Did those parties appear before you on that day and acknowledge that they were Sydney Williams and Elizabeth J. Williams?

A. They must have, Mr. Penney, because I don't take an acknowledgment unless they are there.

The Court: Do you have any recollection of it?

A. As far as I remember, they appeared before me. [318]

(Testimony of Pearl E. Blewett)

Q. By Mr. Penney: Do you ever take an acknowledgment where the parties do not appear before you?

A. Once in a while, if I know them very well, I will take it, but never on a transfer of property. It might be I would on an affidavit or some document of that kind, but it must be someone that I know very well, or know their signatures.

Q. Do you know Sydney Williams?

A. No; I didn't know the man when he came in.

Q. Or do you know Mrs. Elizabeth J. Williams?

A. No.

Mr. Penney: You may cross-examine.

#### Cross Examination.

Q. By Mr. Bledsoe: I understand that you are testifying that they must have appeared before you, because you notarized it? A. Yes, sir.

Q. Isn't it possible that Mr. Williams might have been there and you notarized both signatures?

A. I doubt it very much.

Q. Do you make a record of notarial acknowledgments in such a situation, where one of the parties does not appear before you?

A. I wouldn't take their signature.

Q. You notarize some instruments—

A. It might be an attorney in the building, but I [319] don't take anybody out of the building there.

Q. Well, if an attorney comes in and tells you that Mrs. Jones signed this affidavit—

A. No; I won't take those acknowledgments. It isn't worth the 50 cents to me.

Q. Do you keep a record of every time you put your notarial seal on any document? A. Yes, sir.



(Testimony of Pearl E. Blewett)

Q. Or only in transfers of property?

A. No, sir. I keep a record of everything here.

Q. You keep a record of everything you notarize?

A. Everything I notarize.

Q. But you don't keep a record of everybody that appears before you?

A. If their signature appears on a document, I put it on my notary's record.

Q. You put on your record the people whose signatures appear on the document? A. Yes.

Q. But there is no indication in the record of whether or not they appear before you?

A. I just make a little notation, as I did in this case, of the kind of document it is, and the names of the people acknowledging.

Q. That isn't a transfer of property, is it?

A. No; but I keep a record of everything. [320]

Q. It is an acknowledgment?

A. It is a notary acknowledgment.

The Court: Let me see the claim.

Q. By Mr. Bledsoe: You have no recollection of ever having seen this lady sitting here?

A. Her face looks a bit familiar, but I have so many people coming before me that I don't know that I could definitely say she is Mrs. Williams. Her face looks a bit familiar to me, but that was 1940.

Q. Did you know Mr. Williams before? A. No.

Q. Did he come in to see you with anybody?

A. I don't remember.

Q. Do you remember Mr. Williams?

A. I don't know whether I would recognize him or not.

(Testimony of Pearl E. Blewett)

Q. He is sitting right there (indicating).

A. Is he the dark man?

The Court: You pick him out.

A. I would say it is this man (indicating); I am not sure.

Q. By Mr. Bledsoe: You think you saw him, your recollection is now, in 1940? A. 1940.

Q. How large an office do you have?

A. I employ four girls.

Q. Any other notaries? [321]

A. No; I am the only notary. I had a heavy notary business, have had until the government changed the form.

The Court: What do you mean "heavy"? 40 or 50 a day?

A. No, I wouldn't say that many, but I probably had at least 10 or 12 a day, and during the income tax period I had more, and right then was when the income tax period was on.

The Court: You had many more at that time?

A. Many more at that time.

The Court: As many as 20 a day?

A. Oh, yes.

The Court: Do you remember anybody else who appeared before you on that date, now?

A. I wouldn't, except from the record. I recall a number of these people, because they are regular clients.

The Court: Those that appeared there only on that day, do you remember what they looked like?

A. I know, because they are people I have known for a long time.

(Testimony of Pearl E. Blewett)

The Court: February 19th—is that right?

A. Yes. It is right up there (indicating).

The Court: Walter Withers?

A. I don't remember that name.

The Court: Do you remember what he looked like?

A. No.

The Court: Joe Ryan? [322]

A. He was the manager of the Los Angeles Theater, and I knew him.

The Court: What about Mabel R. Georgistra, Carl Maynard, Gertrude Elliott? A. No.

The Court: Do you remember J. B. Elliott, Gertrude Elliott? A. No.

\* \* \* \* \*

Mr. Penney: The defendant Sydney Williams rests.

The Court: The defendant Sydney Williams rests.

Mr. Taylor: We rest. May I move to adopt the testimony given by Mrs. Williams under Section 43 (b), as being her testimony if we put her on the stand in her own behalf?

The Court: I guess all the testimony she has given has been under 43 (b).

Mr. Taylor: I guess that is correct.

The Court: The defendant Elizabeth Williams rests, and you move to adopt, as Mrs. Williams' testimony, the testimony already given, and the motion is granted, and you rest?

Mr. Taylor: Yes, your Honor. [323]

\* \* \* \* \*

## CHARLES GRIFFEN,

called as a witness in behalf of plaintiff in rebuttal, being first duly sworn, testified as follows:

The Clerk: State your name.

A. Charles Griffen.

The Clerk: And your address?

A. 810 South Spring Street.

## Direct Examination.

Q. By Mr. Davis: What is your occupation?

A. I am an attorney. I am employed by the Association of Casualty and Surety Executives.

Q. What does that mean?

A. The Association of Casualty and Surety Executives is an association of 63 stock casualty companies, and my particular job is to check over any files of our member companies or any other casualty company, wherein they believe there has been any fraudulent personal injury claim.

Q. Directing attention to the matter of Sydney and Elizabeth Williams, has that come to your attention?

A. I received a phone call one time with regard to the matter. [324]

Q. Is the Continental Insurance Company a member of your group?

A. They are not, but I think they are affiliates of one of the casualty companies.

Q. Will you tell how the matter of Elizabeth and Sydney Williams came to your attention, and when?

Mr. Penney: To which I object as being incompetent, irrelevant and immaterial, as far as the defendant Sydney Williams is concerned.

(Testimony of Charles Griffen)

The Court: I fail to see the materiality. Of course, we are supposed to see everything in advance, but I can't see it.

Mr. Davis: All right. I will ask another—

The Court: What is the purpose of the testimony? It may be that it is permissible, as preliminary or as foundation.

Mr. Davis: This is preliminary. I will state to the court just what I expect to prove by this witness. Mr. Griffen will testify that he received a communication from Pinky Thompson regarding a possible claim of a fake robbery in this matter?

The Court: And what was the question you asked, to which counsel objected?

Mr. Davis: I did have a double question there.

The Court: Well, start over again.

Mr. Davis: I can ask it in two different questions.  
[325]

Mr. Penney: I think the court will take judicial notice that Pinky Thompson is now dead, and I don't think we are going to have the testimony of a dead man introduced, and certainly it is hearsay testimony, and I certainly will object to any line of examination he has indicated.

The Court: I think you adduced some testimony from the witness about Pinky Thompson, what was said to him, or what wasn't said to him, but I have forgotten what it was.

Mr. Davis: I didn't introduce it in the course of this trial. It was brought out in a deposition, and I don't think it is material here, and I didn't go into it on the trial of this case.

(Testimony of Charles Griffen)

The Court: It has been mentioned here by question and answer, and I have forgotten what it was. I know the general effect upon my mind. The thing that registered was that this defendant, Esther Williams, or whatever her name is—Elizabeth Williams, had communicated it to Pinky Thompson, and I somehow got the notion that Thompson had told Sydney Williams. That is the very vague impression that is in my mind.

Mr. Davis: Well, we are willing to reopen, if the court wants it.

The Court: I am trying to determine whether this is rebuttal, in the first place, and, in the second place, whether it is admissible, as hearsay.

Mr. Penney: Pinky Thompson was Mrs. Williams' attorney [326] at the time of the trial, and we haven't even mentioned Pinky Thompson in our defense, so it couldn't possibly be rebuttal.

The Court: How was he mentioned here yesterday?

Mr. Penney: Not at all.

Mr. Bledsoe: She testified in her deposition.

The Court: I know it was mentioned audibly here.

Mr. Davis: Mrs. Williams testified that at this case in Doyle's courtroom, or outside in the corridor, she told her attorney, Mr. Thompson, about this matter, and she said that—I will withdraw that; I don't think she did testify here—but he reported it, reported it to somebody he thought was the proper person to report it to.

The Court: Then it was the testimony of Mrs. Williams?

Mr. Davis: I think I am correct on that. That is my recollection. It was in the deposition.



(Testimony of Charles Griffen)

The Court: I don't remember reading it. I remember hearing it here, something to the effect that the general idea was that she should have told Thompson and didn't tell Thompson, and then there was a change of lawyers. Maybe it was cross-examination brought out by Mr. Bledsoe.

Mr. Bledsoe: This is rebuttal. Mr. Williams has now testified this was a robbery, and this is rebuttal. It shows that there was not a robbery, in contradiction of what Mr. Williams said. This is just one of the corroborating circumstances. [327]

The Court: How do you expect it to be binding upon Mr. Williams?

Mr. Davis: If Mrs. Williams had told Mr. Griffen, yes, it would be binding on both of them. Mr. Griffen's testimony will be that the communication came from a third party. I don't believe it is binding on either of them.

The Court: On Sydney Williams?

Mr. Davis: Yes.

The Court: Mrs. Williams testified, I believe, that she told Mr. Thompson about this matter.

Mr. Davis: She did.

The Court: Where is this deposition you were reading from yesterday? Here it is.

Mr. Penney: Page 27.

Mr. Davis: It is on page 28, your Honor. Page 28 is where she says she told Mr. Thompson.

The Court: Have you asked your question?

Mr. Davis: I had asked two questions.

(Testimony of Charles Griffen)

The Court: You had asked one, and were going to split it up.

Q. By Mr. Davis: When did this matter of Elizabeth and Sydney Williams first come to your attention?

Mr. Penney: I object to that as incompetent, irrelevant and immaterial and hearsay, and outside the presence of Mr. Williams, and not binding on him in any way.

The Court: Under the offer of proof it would not be binding, but in the present state of the record the objection [328] is overruled. If it is not connected with Mr. Williams it will be stricken as to him.

A. In the early part of October of 1941.

Q. By Mr. Davis: Don't tell me any communications, but just answer the questions. How did this matter come to your attention?

A. It first came to my attention by telephone from S. W. Thompson, known as Pinky, I believe.

Q. Did Mr. Thompson relate any of the facts or purported facts to you regarding the matter?

Mr. Penney: To which I object as incompetent, irrelevant and immaterial and not binding.

The Court: That objection is not good.

Mr. Penney: And on the further ground, your Honor, that it calls for hearsay.

The Court: As to your client, it is sustained, but it is admissible as to the other defendant.

Q. By Mr. Davis: What did Mr. Thompson tell you?

A. He asked me—

Mr. Penney: To which I now object, your Honor, on the ground that, under the statute, it would be a privileged communication.

(Testimony of Charles Griffen)

Mr. Davis: Do you waive the privilege?

The Court: I don't know whether it is privileged or not. Did Mr. Thompson consult with you in your professional capacity as a lawyer? [329]

A. He called me because he knew I was representing the insurance company.

The Court: Did he call you in that capacity? You don't practice law? A. No.

The Court: As a matter of fact, you don't practice law? Your time exclusively is devoted to this business, is it not?

A. That is right. I have no private practice at all.

Mr. Davis: If the court please, I am a little bit doubtful myself, and the only point is that such communication was made anyway, and I think that is enough, rather than argue the question of admissibility. That is all there was to it, anyway.

The Court: I don't know what there is. You have asked him if the matter involved in this lawsuit was brought to his attention.

Q. By Mr. Davis: What was brought to your attention by Mr. Thompson?

Mr. Penney: I suppose I have to object to each question, your Honor.

The Court: I think you will have to object if counsel insists upon his right to have you object to each question. If he does not, there will be no objection to your objecting to this entire line of testimony as to what was said to this witness by Mr. Thompson, on the ground that it is hearsay, and it is sustained, and will be deemed to have been made [330] and sustained as to your client Sydney Williams, as to each question appertaining thereto.

(Testimony of Charles Griffen)

Mr. Penney: Thank you, your Honor.

The Court: Without the necessity of repeating the objection each time.

Mr. Davis: Will you read back my question to Mr. Griffen?

(Question read by the reporter.)

A. He told me that he believed there had been a fraud committed upon one of the casualty companies. You understood I was representing all of them. And he asked me to come down to his office and discuss the matter, which I did. And, after going down there he told me that—I have forgotten now whether it was a burglary or a robbery loss of Sydney Williams and his wife. And he said he now represented Mrs. Williams, that they had separated and were having trouble, and that she was willing to tell the story about this robbery or burglary loss, and would tell me it was entirely fraudulent. And he said he thought she was interested in having a criminal prosecution. If you are interested in my reply—

Q. Yes.

A. I told him in the first place I had never worked on burglary losses; that the only thing I was interested in was personal injury and if it affected one of my companies I would be glad to communicate the information to them, and if [331] the company was interested, and if a criminal prosecution was instituted I would tell them where to get the information. Then Mr. Thompson said he would make an appointment for Mrs. Williams to be in my office on October 6th. He called me and said she would be there at a certain time, and she failed to appear, and I called him back on the phone, I think that afternoon, and told him she had not shown up, and he said he would

(Testimony of Charles Griffen)

make another appointment, and later he called he and said she would be down on the 8th. On the 8th I waited for an hour or two after she was supposed to be there, and called Mr. Thompson and said she had failed to appear. And he said, "I have talked to her since, and she doesn't want to come down." I then went to the adjuster for the Continental Insurance Company and told him I had no interest in the matter myself, but that I would pass along the information for what it was worth to him. I have only met the man on one occasion, and I think it was—

Q. If I name the name to you, can you—

A. Yes.

Q. Was it Mr. Bangs?

A. I am sure that is the name. [332]

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GEORGE P. MEYERS,

called as a witness in behalf of plaintiff in rebuttal, being first duly sworn, testified as follows:

The Clerk: State your name.

A. George P. Meyers.

The Clerk: What is your address?

A. 1515 Murray Circle, Los Angeles.

Direct Examination.

Q. By Mr. Davis: What is your business or occupation?

A. I manufacture commercial fishing gear.

Q. Do you know Elizabeth Williams or Sydney Williams, or both of them?

A. No. I know Mrs. Williams.

(Testimony of George P. Meyers)

Q. Do you recall seeing Mrs. Williams some time in the summer of 1940?

A. Yes, some time, August or September of that year.

Q. Where did you see her?

A. At her home.

Q. Where was it?

A. Somewhere in North Hollywood, just off of Dark Canyon.

Q. Dark Canyon?            A. Dark Canyon.

Q. Who was with you?

A. Mr. and Mrs. Fadden.

Q. Where are they? [333]

A. Mr. Fadden has passed away, and Mrs. Fadden is in Los Angeles somewhere.

Q. What was the occasion for going to her house?

A. To pay a visit.

Q. The three of you?

A. Yes, sir.

Q. Was anything unusual brought to your attention?

A. Only that she was showing us through the house, and there was a door, and the panel had been sawed out between the bathroom and the dressing room.

Q. What did you do?

A. She asked us if we would take the door off, so she could get in and out.

Q. Did you take the door off?

A. We took the door off.

Q. Who did it?

A. Mr. Fadden and myself.

Mr. Davis: That is all.

The Court: Cross-examine.



(Testimony of George P. Meyers)

Cross Examination.

Q. By Mr. Penney: When did you say this occurred?

A. Some time in August or September, 1940.

Q. Where were you living at that time?

A. At my ranch at Pico, California.

Q. Where had you been prior to going to this home?

A. Where had I been? I don't understand you. [334]

Q. Where had you been immediately before you went over to Mrs. Williams' home?

A. At the Faddens' home.

Q. Where were they living at that time?

A. On Kenmore Avenue.

Q. Do you know the number? A. No.

Q. Do you know the address of Mrs. Williams' home?

A. No, I don't know the address.

Q. Can you describe the place?

A. There was a living room, a bedroom upstairs and a bathroom upstairs, and a kitchen downstairs; I believe it was a round bedroom. I am not sure.

Q. How many bedrooms did this place have?

A. I wasn't paying any attention. We looked through the house, was all.

Q. One bedroom?

A. We saw that one round bedroom, I distinctly recall.

Q. Did they have more than one bedroom?

A. I think there was two. I think there are two bedrooms upstairs, and one was square and one was round.

Q. Any bedrooms downstairs?

A. I don't believe I recall seeing any bedrooms downstairs. There may have been.

(Testimony of George P. Meyers)

Q. A living room?

A. Yes, a living room. [335]

Q. Dining room? A. Yes, a dining room.

Q. A kitchen? A. Yes.

Q. That was all there was downstairs?

A. There was a bathroom downstairs.

Q. And two bedrooms and a bathroom upstairs?

A. I believe there was.

\* \* \* \* \*

### LUISE BERRENBURG,

called as a witness in behalf of plaintiff in rebuttal, being first duly sworn, testified as follows:

The Clerk: Will you state your name?

A. Luise Berrenberg.

Q. And your address?

A. 2032 $\frac{3}{4}$  Vista Del Mar.

The Court: Los Angeles?

A. Hollywood.

### Direct Examination.

Q. By Mr. Bledsoe: Mrs. Berrenberg, do you know Mr. and Mrs. Williams? [336] A. Yes, I do.

Q. Did you know them in 1940? A. I did.

Q. Did you have occasion to see Mrs. Williams some time in 1940? A. Yes, sir.

Q. At which time something unusual occurred?

A. I don't know what you mean by "unusual."

Q. Let me ask you: Do you remember when Mr. and Mrs. Williams separated in 1940?

A. No, I don't remember when they separated.

(Testimony of Luise Berrenberg)

Q. Do you remember that they did separate?

A. I do.

Q. Some time after that did you see Mrs. Williams?

A. I did.

Q. How long after they had been separated?

A. Well, I really don't know when they separated, but I saw her in the spring of 1940, some time in May, I think.

Q. What was the occasion of your going over to their house?

A. Well, a mutual friend of the Williams and myself, a very old friend, told me that they were separating, and that Mrs. Williams was in a very nervous state, and would I please see her and talk to her,—and she was alone—and try to comfort her and help her a little, which I did.

Q. Will you describe the condition, the physical [337] appearance of Mrs. Williams?

A. She was very thin and very nervous and terribly upset.

Q. What do you mean by that?

A. Well, naturally she was undergoing terrible emotional strain.

Q. Did you observe her crying, or anything like that?

A. One time she called me after I had been there and—

Mr. Penney: Your Honor, I am going to have to object again. This is not binding against Mr. Williams and is pure hearsay, and not rebuttal testimony.

The Court: I am wondering if it is rebuttal.

Mr. Bledsoe: I will state that we intend to prove by this witness—

(Testimony of Luise Berrenberg)

The Court: I suppose you intend to corroborate Mrs. Williams.

Mr. Bledsoe: Not only that, but Mr. Williams says there was a robbery and that he was not in San Diego, inferring, of course, that the stones were never taken out of the settings, and this witness will testify that she saw the stones and that they were out of the settings.

The Court: Overruled.

Mr. Bledsoe: I was laying a foundation.

Q. Did you stay over night at Mrs. Williams' house on the occasion when you went over there?

A. I did, several times. [338]

Q. On one occasion did Mrs. Williams show you a package? A. Yes, sir.

Q. Where was you when she showed you that?

A. They had a tower bedroom, and we went up to her bedroom and—

Q. The tower bedroom was where?

A. At the end of the living room there was an open stairway and a tower bedroom—

Q. Was it a circular bedroom?

A. It was a circular bedroom. And there was a dressing room off of the bedroom, I mean back and off of that room was a dressing room, and out of this dressing room she brought a little package and showed it to me.

Q. What do you mean "package"? What did she show you?

A. First she said to me, "Did you ever see any loose diamonds," just like that. She was nervous and fearful. And I said, "No, I have never seen any loose diamonds."

Mr. Penney: Your Honor, I want to object to this line of examination as hearsay, as far as we are concerned, and it is outside the scope of the issues.

(Testimony of Luise Berrenberg)

Mr. Davis: It was still going on at that time. Mrs. Williams' statement while the conspiracy was in existence is certainly binding on both defendants, and throughout the trial testimony has come in on that theory.

The Court: The objection is overruled for the time [339] being, subject to a motion to strike.

Mr. Penney: I want the record, then, to show that my objection has gone to all examination as to any conversations between her and Mrs. Williams.

The Court: Very well.

A. She took these diamonds—she had them in a handkerchief—out of something—I don't know what it was, because I wasn't interested in the diamonds, and she held them in her hand like this and showed them to me. I didn't count them or examine them, but I saw them.

Q. By Mr. Bledsoe: Were they all the same size?

A. No. I noticed there was one seemed larger than the rest, but I couldn't say.

Q. Were all the rest the same size?

A. I couldn't say to that.

Q. Do you know whether they were all the same size?

A. No; I am not a diamond expert.

Q. You have seen diamonds? A. Yes, sir.

Q. Did these appear to be diamonds?

A. They seemed to be.

Q. Did she state to you why she was showing them to you?

A. She was very fearful, and she said, "If anything should happen to me, I would like somebody to know this."

Q. You stayed all night? [340] A. Yes.

The Court: You stayed all night with her?

A. Yes, sir.

(Testimony of Luise Berrenberg)

Q. By Mr. Bledsoe: After that did you go back to see her again? A. I did.

Q. About how much time elapsed between the first time and the second time?

A. I wouldn't be able to say, but a week or two weeks.

Q. Less than a month?

A. I don't remember, Mr. Bledsoe.

Q. Did you observe anything upstairs in the bedroom at that time that was unusual?

A. She showed me the door where the panel was broken.

Q. Did she tell you what had happened?

A. What she thought had happened.

The Court: All of the testimony that this witness has given concerning conversations with the defendant Elizabeth Williams is stricken, in so far as the defendant Sydney Williams is concerned.

Mr. Bledsoe: Subject to a motion to strike.

The Court: I am striking it of my own motion. All of the testimony is admitted as against the defendant Elizabeth Williams. Only the testimony is admitted as against the defendant Sydney Williams which is not conversational.

Q. By Mr. Bledsoe: What did she tell you when she [341] showed you the door?

A. I asked her if the outside door was broken in, and she said no, and she thought that Mr. Williams came in and broke this door down to get those diamonds. And I said I didn't see why he should break a door down in his own house, that he would have to repair it. But that is what she thought he did. She said the diamonds were gone.

Mr. Bledsoe: That is all.



(Testimony of Luise Berrenberg)

The Court: Cross examine. That testimony as to conversation is likewise stricken as to the defendant Sydney Williams only.

Cross-Examination.

Q. By Mr. Penney: You say you know Mr. Williams? A. I know him casually.

Q. Have you ever met him? A. Yes.

Q. Been introduced to him? A. Yes.

Q. Where?

A. The first time was at the home of Miss Edith Simpson.

Q. Where was Miss Simpson living?

A. She lived on Hayworth then. She is now married.

Q. Do you recall when it was that you met Mr. Williams the first time?

A. I don't remember—some time within the last ten [342] years.

Q. Where were you residing in May of 1940?

A. On Laveta Terrace, with some friends of mine.

Q. You fix this as the early part of May of 1940; is that right?

A. The early part of May was when I first met Mrs. Williams.

Q. You are certain now about that date?

A. No, I am not at all certain about dates. I simply know that Miss Simpson called me and asked me to see her, after she had had a separation from her husband, and it was all very kindly, I am sure.

Q. I don't doubt that. I am not saying anything about the motive. I am only trying to fix dates.

A. I am in doubt about the dates; I am sorry; but it was in the spring, before she made a trip east. I remem-

(Testimony of Luise Berrenberg)

ber that, because I advised her not to go, and she went anyway.

Q. You think it was in May, 1940?

A. It would have been May, or maybe June.

Q. But she showed you some diamonds at that time?

A. No, not at that time. That was after she came back from the east. That must have been some time the latter part of August or some time in September.

Q. August or September. On your first trip over there wasn't she hysterical?

A. I didn't go over there before—it was after she [343] came back. She came to see me before she went east.

Mr. Penney: Your Honor, I made some notes here, and I may be in error. I am going to ask the reporter to go back and find out the first time she went over there.

The Court: The spring of 1940—saw her in May, I think, is what she said. That is the first time she saw the diamonds.

Mr. Penney: My note is that she stayed over night.

The Witness: That is the wrong date. That was when I first met Mrs. Williams, but I did not see the diamonds until later in the summer, after she came back from this trip east.

Q. You advised her not to go east, didn't you?

A. Yes, I did.

Q. And didn't you advise her not to go east, on account of her hysterical condition?

A. My idea was to get them together, and I thought he didn't want her to go, so she shouldn't go.

Q. You advised her not to go east? A. Yes.

(Testimony of Luise Berrenberg)

Q. And you advised her not to go east, because of her hysterical condition, didn't you?

A. No. I didn't notice her hysterical condition then. It was later that she developed that. One time she called me late, about the time she showed me the diamonds, and she was crying, and she asked me to come over, and she was still crying when I got there, so I would judge she was rather [344] hysterical, and she couldn't stop, and so I called the doctor, and he had to give her some medicine.

Q. Did he give her opiates?

A. He gave her what I would judge to be an opiate. I couldn't swear to what the doctor did give her, but she went to sleep.

Q. Have you seen her on other occasions on which opiates have been given to her?

A. Oh, no.

Q. That is the only occasion?

A. That is the only one.

Q. Did you meet her for the first time in May, 1940?

A. Yes, I did.

Q. At her home?

A. No. She came to see me.

Q. Who did she come to see you with?

A. She came, through Miss Simpson, who was busy, and couldn't come with her, and she said she would come to see me and would I talk to her and see if I could help her. Miss Simpson was a very old friend of mine and also a friend of the Williams, and her idea was to get the two together again, and she thought that with a little advice and a little counsel the girl would be happier, and she sent her to me for that.

Q. If I understand you correctly, Miss Simpson sent her to you? [345]

A. Yes.

(Testimony of Luise Berrenberg)

Q. And that was in May, 1940?

A. That is what I think, about that time.

Q. And you had never met her before? A. No.

Q. And you didn't know anything about her problems?

A. No.

Q. Without being personal, Mrs. Berrenberg, do you follow some profession in which you give advice?

A. I am studying and have studied for many years a very fine line of metaphysics.

Q. Did she come to you professionally?

A. No, not professionally, because I didn't make it professional, but I was glad and willing to help her, because she was a friend of Miss Simpson's.

Q. Have you ever visited other persons who were having domestic rifts of any kind?

A. Not professionally.

Q. Did you ever contact Mr. Williams and suggest to him that it would be a good thing for them to get back together again? A. Yes, I did.

Q. When?

A. Mr. Williams came out to my house, and he brought Mrs. Williams with him and left her in the car outside, and came in and talked to me. [346]

Q. When was that?

A. That was about—I can't remember whether that was before she went east or after she came back.

Q. How long was Mr. Williams over at your house?

A. A half hour, maybe, or three-quarters.

Q. What did you and Mr. Williams discuss?

A. His trouble with his wife.

(Testimony of Luise Berrenberg)

Q. What did he say to you?

A. Well, I don't really remember everything he said.

Mr. Davis: What is this for—to test her memory?

Mr. Penney: Your Honor, this comes as the most amazing thing in this trial. Mr. Williams tells me that he has never seen this woman before, and I want to hear the rest of her story.

Mr. Davis: Conversation she and Mr. Williams had outside of the presence of Mrs. Williams and outside of the presence of the plaintiff is not binding on the plaintiff.

Mr. Penney: I want to test her memory now.

Mr. Davis: I still object.

The Court: I don't think it is cross-examination. I think it might be permissible on a certain feature of the trial. Mr. Williams has not yet testified on this. If that testimony were in the record it might be permissible to recall her on rebuttal and cross examine her.

Mr. Penney: That is all.

The Court: Step down. [347]

\* \* \* \* \*

IRMA CUDD,

called as a witness in behalf of plaintiff in rebuttal, being first duly sworn, testified as follows:

The Clerk: State your name. A. Irma Cudd.

The Clerk: And your address?

A. 6507 South Figueroa.

Direct Examination.

Q. By Mr. Bledsoe: Where are you employed, Miss Cudd? A. Federal Reserve Bank.

(Testimony of Irma Cudd)

Q. Do you know Mr. and Mrs. Williams?

A. I do.

Q. Did you know them in 1939? A. I did.

Q. Did you work at the same place Mrs. Williams worked at in 1939? A. Yes, I did.

Q. Where was that?

A. Claudette of Hollywood.

Q. What part of the year 1939? [348]

A. I went to work there in August.

Q. What was the place where you worked?

A. Claudette of Hollywood.

The Court: What is Claudette of Hollywood?

A. It is a garment manufacturer. I went to work there in 1938.

Q. By Mr. Bledsoe: Were you working there in 1939? A. Yes.

Q. The early part of 1939? A. Yes.

Q. Was Mrs. Williams also working there?

A. Yes, sir.

Q. Mr. Williams was the president and manager?

A. Yes.

Q. He was about every day?

A. Yes, some time every day.

Q. Did you observe what jewelry Mrs. Williams was wearing at that time? Can you state what jewelry she wore?

A. When I went to work there in August she had a diamond and a watch.

The Court: A diamond and a watch?

A. A diamond and a watch.

The Court: A diamond ring, you mean?

A. That is right.



(Testimony of Irma Cudd)

Q. By Mr. Bledsoe: Showing you Plaintiff's Exhibit 8, a ring, will you take a look at that and tell us if that [349] appears to be similar or the same ring?

A. Yes, I think it is the same ring.

Q. Did you observe at some time that Mrs. Williams acquired another ring? A. Yes.

Q. When was that?

A. I think it was in the first part of 1939.

Q. Will you just state the occasion on which you observed it? How large was the other ring?

A. It was larger than the one she had.

Q. What type of ring was it?

A. It looked to me to be an engagement ring.

Q. How did you happen to observe it?

A. I worked in the office, and they came back—

Q. Who do you mean?

A. Mr. and Mrs. Williams.

The Court: She wasn't Mrs. Williams then, was she?

A. No.

The Court: What was her name? A. Betty.

Q. By Mr. Bledsoe: What did Mr. Williams say to you?

Mr. Penney: I am going to object. There has certainly been no foundation laid for this type of examination, and he is asking no impeaching questions of any kind.

The Court: It may be rebuttal. It doesn't have to be impeaching to be rebuttal. [350]

Mr. Bledsoe: He testified he bought this ring in 1936. and she testified it was 1939.

The Court: 1938, she testified.

(Testimony of Irma Cudd)

The Witness: She was wearing one diamond ring when I went there, when I went to work there.

Mr. Bledsoe: Now I am referring to the engagement ring.

The Court: All right. The objection is overruled.

Q. By Mr. Bledsoe: What did Mr. Williams say to you?

A. I don't recollect the exact words, because I can't remember, but I know he bought the ring for Betty.

Q. Did he state that he bought it that day?

Mr. Penney: I am going to object to his leading the witness.

The Court: Yes, I think so.

Mr. Bledsoe: I know she can't remember the exact words, but there are certain times when a witness may be led, and this is one of them.

The Court: The objection is sustained. Of course, the harm is done now, but the objection is sustained just the same.

Q. By Mr. Bledsoe: Did Mrs. Williams say anything to you, in his presence, about this second ring?

A. I don't remember anything about that. I was under the impression that they had bought it that day.

The Court: Not what your impression was—just the best of your recollection as to what either of them said.

[351] A. I can't recall now.

The Court: In substance.

A. I was under the impression that Mr. Williams bought the ring for Betty that day.

(Testimony of Irma Cudd)

The Court: When you say you were under the impression, that is what is known in law as a conclusion of the witness, and I am the only one who is permitted under the law to draw conclusions, and I have to draw those conclusions from what the witnesses say people said. What gave you that impression? Was it something he said, or did you just figure that out for yourself?

Mr. Penney: Your Honor, the testimony is that the ring was bought about 1939, the engagement ring, and there is a check right here for \$500, so that it is perfectly all right. I will stipulate that that is what they did at that time, that is, that they bought it about that time, and that is what they told us.

The Court: What more do you want?

Mr. Bledsoe: I will accept the stipulation on the engagement ring, which is item number what? —on the 3-carat stone?

Mr. Penney: No.

Mr. Bledsoe: Item No. 5. I will accept the stipulation.

The Court: Is that the one which is called an engagement ring?

Mr. Penney: The one they talked about, the engagement [352] ring, is a different ring.

The Court: One platinum diamond engagement ring. That is No. 5. No. 3 is one diamond friendship ring.

Mr. Penney: He testified that No. 3, that was the friendship ring, was an engagement ring, and that was the

(Testimony of Irma Cudd)

ring which was purchased, and the check is right here in the record.

Mr. Bledsoe: I will accept the stipulation.

The Court: As I understand this witness' testimony, item No. 3 is a ring which the defendant, Mrs. Williams, was wearing in August, 1938, when this witness went to work with Mrs. Williams at Claudette of Hollywood. That is her testimony up to now. You go ahead.

Q. By Mr. Bledsoe: Did Mr. Williams state to you, in the early part of 1939, when they had the large engagement ring, the one you have in your hand, did he tell you anything that gave you the impression that that had just been purchased, that they had just purchased it that day? If he did, state to the court, to the best of your recollection, what you remember he said or she said in his presence.

Mr. Penney: May I ask one question: Describe the ring we are speaking about when we speak about the ring described as No. 5.

The Court: I don't think that makes any particular difference. She is talking about an engagement ring. You can cross-examine her on that. [353]

The Witness: I will have to have the last question again, please.

The Court: Yes, I think so.

Mr. Bledsoe: Let us withdraw that question.

The Court: Yes.

(Testimony of Irma Cudd)

Q. By Mr. Bledsoe: What did Mr. Williams and Mrs. Williams say to you when you were shown the large engagement ring, the one we have been referring to?

The Court: She testified that she doesn't remember what they said.

A. I don't know what they said. I think they bought it that day, is all I know. They came in together from being out.

Q. By Mr. Bledsoe: Did Mrs. Williams shows it to you?

A. Yes.

Q. How large was it?

A. It was larger than the other ring.

Q. Did you ever see this on her hand?

A. She used to wear this on her left hand before she got the large one. After that she had it cut down and wore it on her little finger.

Q. She wore the second ring on the finger that a person would wear a ring on who was engaged?

A. Yes, sir.

Q. Did you notice her wearing any other articles of jewelry? [354]

A. Yes; she had a watch.

Q. What kind of a band did it have?

A. A black band.

Q. Afterwards did you notice whether or not she had a different band on her watch?

A. No.

Q. Did you ever see her with a watch with a diamond band?

A. Not that I remember.

Q. When did you leave Claudette's?

A. After they had the fire.

(Testimony of Irma Cudd)

Q. I show you Plaintiff's Exhibit 7. Does that appear to be the watch that she wore with her diamond band?

A. Yes, I would say it was.

Q. At one time did you observe Mrs. Williams—did Mrs. Williams wear any other watch?

A. No, I just saw her wear this one with the black band.

Q. Every time you observed her did she have those three pieces of jewelry on her?

A. Yes, most of the time.

Q. Did you notice whether she wore the large engagement ring all the time?

A. She wore it all the time after she had it, until I left there after the fire.

Q. Did you see her in the year 1940? [355]

A. Yes; I used to see them both frequently.

Q. Did you observe whether or not she had the ring on her finger at that time, in 1940?

A. I really don't know.

Mr. Bledsoe: I believe that it all.

The Court: Cross examine.

#### Cross-Examination.

Q. By Mr. Penney: Is it Miss Cudd or Mrs. Cudd?

A. Mrs. Cudd.

Q. Referring now to Plaintiff's Exhibit No. 7, as I understand, you saw her wear this watch with the black band on it?

A. Yes. When I first knew her she had a black band on her watch, like this.



(Testimony of Irma Cudd)

Q. Did you ever examine that watch carefully?

A. No, not carefully.

Q. But this watch appears to be the type of watch she was wearing in 1938, when you first came there, but she wore it with a black band?

A. That is right. She had a black band.

Q. And Plaintiff's Exhibit No. 8 is the ring—would you say that is the same ring that she was wearing in—

Mr. Bledsoe: Is that Exhibit No. 8?

Mr. Penney: It is marked 8. I don't know whether it is 8 or not, but it is marked 8.

Mr. Bledsoe: All right. [356]

Q. By Mr. Penney: Is that the same ring that she was wearing in 1939?

A. Yes, she had this in 1939.

Q. That identical ring?

A. I would think it was that one, yes.

Q. Had you ever taken the ring off and looked at it?

A. Yes, I have had the ring.

Q. How many diamonds does it have in it?

A. I really don't know.

Q. As many as 30 small stones?

A. I don't know.

Q. Did you ever count them?           A. No.

Q. Did you have it on before or after she had it cut down?           A. I really don't remember.

Q. Do you know whether or not she had a different setting put in it after she had it cut down?

A. I don't know.

(Testimony of Irma Cudd)

Q. Do you know how large a stone this is?

A. I asked them once, and they said it was just a little under one carat.

Q. Who did you ask?

A. Mr. and Mrs. Williams.

Q. Mr. and Mrs. Williams? A. Yes. [357]

Q. Did you ask them about any of the other stones?

A. No. I was interested in this ring. I thought it was very attractive, and I just asked how big it was, and they said it was just a little under one carat. .

Q. And aside from what she told you, you wouldn't have any idea how large it was?

A. I wouldn't have any idea.

Q. If I showed you any other stone would you have any idea how large a stone it was?

A. No, I wouldn't. I don't know anything about that.

Q. Did you see Mrs. Williams in 1940?

A. Yes. I used to see her lots of times. I used to go to their house.

Q. Did you see Mrs. Williams wear this watch in 1940, Plaintiff's Exhibit 7?

A. I don't know when it was.

Q. Did you see her wear that in 1940?

A. I can't remember.

Q. What is your best recollection?

A. Well, I don't know about the dates, sir.

Q. Do you know when they were married?

A. Yes.

(Testimony of Irma Cudd)

Q. They were living together in 1940, weren't they?

A. Yes, sir.

Q. And you were over there at their home, weren't you?

A. I don't know whether it was in 1940. I presume it [358] was.

Q. Did you see her wear this watch in 1940?

A. I say, I can't remember.

Q. How about the ring, Plaintiff's Exhibit No. 8? Did you see her wear that in 1940?

A. Well, I would have to fix some dates in my mind before I—

Q. Can you fix the date now, before we have the recess?

A. I know I went to work in August of 1938, and I left there in 1939, in the spring of 1939, after they had the fire, and from then on I didn't pay any attention, because I used to just see them. I have seen them on several occasions. They were at my wedding in March of 1940, I know that.

Q. In March did you see her wear this ring?

A. I don't remember.

Q. Did you see her wear the watch?

A. I don't remember.

Q. Did she have on any jewelry?

A. I don't remember.

The Court: That was the night of your wedding?

A. That was the night of my wedding, and I wasn't paying attention.

(Testimony of Irma Cudd)

Q. By Mr. Penney: I will show you a check, which is payable to David Riskin, in the amount of—that is Defendants' Exhibit No. G in the— [359]

Mr. Davis: Has that been offered in evidence here?

Mr. Penney: No. This check bears date February 6, 1939.

The Court: Is that an exhibit here?

Mr. Penney: No, your Honor. It is Exhibit G in the Superior Court case, your Honor. It is in the amount of \$500, and is payable to David Riskin.

Q. By Mr. Penney: That was a month before you were married? A. Yes, sir.

Q. Is that right?

A. No, it wasn't the month before I was married. I was married in 1940.

Q. I beg your pardon. When was the fire?

A. In 1939.

Q. Do you recall the month in 1939?

A. I think it was March. It was before Easter of that year.

Q. When you saw Mrs. Williams with this new engagement ring you spoke about, was that about February, before Easter of 1939?

A. Yes; it was just right before the fire.

The Court: Are you offering that check in evidence?

Mr. Penney: I have no objection. I will offer it in evidence at this time.

The Court: It will be Defendants' Exhibit A. It will [360] be photostated and the original will be sent over to the Deputy County Clerk.

(Testimony of Irma Cudd)

Mr. Penney: That is all.

The Court: Any redirect?

Mr. Bledsoe: Just a short question.

The Court: All right.

Redirect Examination.

Q. By Mr. Bledsoe: Did you ever see Mrs. Williams put any mark of identification on the watch she was wearing, that would indicate to you that it was the same watch that is now before you?

A. I can't remember, sir; I can't remember. [361]

\* \* \* \* \*

ROBERT L. REYNOLDS,

a witness heretofore duly sworn in behalf of plaintiff, upon being recalled in rebuttal, testified as follows:

Direct Examination.

Q. By Mr. Davis: Mr. Reynolds, you have been sworn? A. Yes.

Q. Mr. Reynolds, in any of your conversations with Mr. Williams, when he reported this loss, did Mr. Williams state anything to you about going to Yuma on the trip to Calxico in December, 1939? A. He did.

Q. Will you just state what he said?

A. Mr. Williams came into my office and sat in a chair directly opposite me at my desk.

Mr. Penney: I am going to object to that, your Honor. He is asking these questions, and they must be in the form of impeaching questions.

(Testimony of Robert L. Reynolds)

The Court: It may be rebuttal without being impeachment.

Mr. Davis: It is a rebuttal question, as to his own admission made to Mr. Reynolds.

The Court: What is the ground of your objection—that it is not proper impeachment? [362]

Mr. Penney: That is right.

The Court: Overruled.

Q. By Mr. Davis: You may go ahead and state.

Mr. Penney: And on the further ground, your Honor, that they cross examined Mr. Williams in their case in chief, and they cross examined her in their case in chief, and they should have given us an opportunity to go ahead and rebut that in our case.

The Court: I don't know what it is. This is a conversation, I take it, at the time Mr. Williams came to Mr. Reynold's office, that he testified about before. This is to rebut something that you have put on in your case. What it is I don't know.

Mr. Penney: It couldn't have been, your Honor, because they are the very questions they asked him in their case in chief. I didn't ask him anything about Mr. Reynolds in our case in chief.

The Court: Let me hear the question, and then I will know which ocean we are sailing on.

(Question read by the reporter.)

Mr. Davis: If Mr. Penney does not recall and your Honor does not recall, I will state what he said. After Mrs. Brown testified and when Mr. Williams was again on the stand, I asked him specifically if he did not go to Yuma, and he said he did not go to Yuma on that trip, and, although I don't believe it was necessary, I then put



(Testimony of Robert L. Reynolds)

it in the form of [363] an impeaching question also, and I asked him if it wasn't a fact that he told Mr. Reynolds so.

The Court: I think that is correct.

Mr. Penney: If he wants to put it in the form of an impeaching question—

Mr. Davis: I don't have to put it in the form of an impeaching question. I don't want to go over the things that were brought out in my first case. I am now rebutting his testimony.

The Court: Well, if it is pertinent.

Mr. Davis: It is rebuttal, your Honor.

The Court: You would have to put it in the form of an impeaching question, if it is general rebuttal, or on any matter that was brought out during the examination, or during the defendants' case. Then I think he is entitled to answer the general question.

Mr. Davis: That is what it is. It was brought out in their case.

Mr. Penney: Your Honor, there wouldn't be any question about it if Mr. Williams said he didn't go to Yuma; they could bring a witness in to prove that he did go to Yuma. But if they ask him the impeaching question, did you tell Mr. Reynolds that you didn't go to Yuma, then they have got to put the impeaching question in the same form they asked him.

The Court: I don't think they can go into the general [364] conversation. I don't think that is the purport of his question. I am inclined to think Mr. Penney is correct. The objection is sustained.

Mr. Davis: All right.

Q. By Mr. Davis: Mr. Reynolds, I will ask you if, at the time Mr. Williams reported this loss to you on

(Testimony of Robert L. Reynolds)

January 2, 1940, if he did not state to you that he, on December 31st, got up about 10:00 o'clock in the morning and went to the Browns' house, and found that they were not there, and he and Elizabeth drove to Yuma, arriving back at Calexico at about 6:30 in the evening?

Mr. Penney: To which I object as not being the question asked of Mr. Williams.

Mr. Davis: I have his notes and I brought mine up here and read from them when I propounded the question to Mr. Williams. That is the substance and effect of what I asked him.

The Court: My recollection was that you asked him if he told Mr. Reynolds that he had gone to Yuma, not if he had gone to Mrs. Browns' house.

Mr. Davis: I went back and got his file from him and got his original notes, and came up here and read from the notes to him, what was in the notes.

The Court: I think I will have to take your word for it. My recollection is not accurate as to this. I will overrule the objection. [365]                      A. He did.

Q. By Mr. Davis: Did you make a record of it at that time?                      A. I did.

Q. This record which you are referring to now was made at the time you held your interview with him on January 2, 1940?

A. That is right. I wrote down his answers on my book as I talked to him.

Q. You didn't write down the questions you asked him?                      A. No.

Q. But you wrote down the answers that he gave?

A. That is right.

(Testimony of Robert L. Reynolds)

The Court: Are you looking at that now?

Mr. Davis: Yes.

Mr. Penney: I would like to see it.

Mr. Davis: I will do better than that. Just to make the record clear, I am going to ask to have these records marked.

The Court: They can be marked for identification, but they should be shown to counsel.

Mr. Davis: Yes.

The Court: They will be marked for identification as Plaintiff's Exhibit 14.

Q. By Mr. Davis: Mr. Reynolds picked up two sheets here. Are they both part of this interview? [366]

A. Yes; there were two policies involved, a sheet for each policy, but the interview carries over from one to the other.

Mr. Davis: May we pin them together and mark them as one exhibit?

The Court: Yes.

Mr. Davis: May we have those clipped together as one exhibit, and offer them in evidence?

Mr. Penney: To which I object, if your Honor please, as being a self-serving declaration and not binding on us.

Mr. Davis: It is a declaration of one of the parties.

Mr. Penney: They are not in our handwriting.

Mr. Davis: They are corroboration of his testimony, as being a memorandum made at the time of the transaction.

Mr. Penney: Well, they were made and produced for the purpose of refreshing his recollection, quite obviously.

(Testimony of Robert L. Reynolds)

The Court: As I remember the section of the Code—it comes up in almost every trial—it says that the opposite party may offer them in evidence, but it doesn't say that the party who produces them may offer them in evidence, and there is a sound reason, because it reduces to writing the testimony of the witness and comes under the hearsay rule.

Mr. Davis: I think your Honor is right.

The Court: The objection is sustained. Mr. Penney may offer them in evidence, if he wants to. [367]

Mr. Penney: I don't want to deprive them of a permanent record, your Honor.

Mr. Davis: I don't know. Did you answer my question, the question asked about the statements made by Mr. Williams? Did you answer that? Mr. Bledsoe thinks I didn't get an answer.

Mr. Taylor: If your Honor please, on behalf of the defendant Elizabeth Williams, I desire to offer the exhibit into evidence.

The Court: It may be admitted.

The Clerk: Your Honor, it was first offered as Plaintiff's Exhibit 14.

The Court: I sustained the objection to that. Now this is an offer by the other defendant. You had better start in with AA now. This will be defendant Elizabeth Williams' Exhibit AA. Apparently Mr. Taylor is not so concerned about the records being kept complete as you are.

## [DEFENDANT'S EXHIBIT AA.]

Claim No. LA 4 - 40 B Co. Continental Amt. of Loss 300.  
 Policy No. SPF303653  
 Broker Bayer Expires 9-1-42  
 Agent Harvey Total Amt. \$8,000.00  
 Form File by Felt Proof Instructions  
 Assured William M. Williams & Elizabeth J. Williams  
 Res. Address 3418 La Grange Dr. - L.A. Ph.  
 Bus. Address Ph.  
 Occupation  
 Date Lost Location  
 Item No. One diamond ring  
center with small round stones - Prof. \$300.-  
Per. Williams - \$225.-  
Gold band - \$75.-  
one watch - \$25.-  
Yellow gold case - \$4 light metal  
6 Brown leather bands  
 Appraised By Al L. G. Hardy Val. Est. \$250.-  
 Purchased From  
 Reported 1/2/40 by Williams  
 Remarks

No. 1-1-1  
 UNITED STATES DISTRICT COURT OF APPEAL  
 FOR THE NINTH CIRCUIT  
 1-1-1

Reporting Instructions:

PAUL P. O'BRIEN  
 CLERK

No. 2738-PH  
 Continental vs Williams  
 Depts. AA  
 1942 AA  
 AA

*[Signature]*





(Defendant's Exhibit AA)


## STATEMENT OF LOSS

1/2/40 By Phone, Letter Interview, Accused.

Sat. 12/30/39, left L.A. + drove to Colerico. Wife +  
 self arrived there about 3:30 P.M. Went to  
 DelAnga Hotel. = York room #511. = Her  
 friends there. - Mr. & Mrs. Brown = Greyhound Agent.  
 Sat. P.M. called on Brown + then went to  
 Police Station across street to check on John also  
 Mount relative to theft of Mrs. Brown's car. - Mrs. B.  
 a client. = introduced accused to several  
 officers. = Sat. night left Oakland at Brown's  
 station. Walked across border to Minnelli's  
 walked around streets. - Went to El Centro Cafe  
 for dinner. = Brown + wife + child joined them  
 after dinner, walked around some more +  
 then returned to Colerico. - Walked around in  
 Colerico. - Drug store. - Day purchased. Staid in  
 hotel about 9:30 P.M. - the hotel out of rooming.  
 wore dia. rings - Gault + watch in purse. = Mrs.  
 wore slacks. =  
 Sun. A.M. <sup>31st</sup> Breakfast at motel. = Got car about  
 10:45 A.M. = Drove to Brown's residence. - Mrs. B. mother.



## Defendant's Exhibit AA)

returned to Union (Boris) - tried to drive to  
 Union for the drive. But returned to a  
 Union about 6:30 P.M. - Went across for a  
 spin and had dinner at Imperial cafe,  
 walked and down again and then back to  
 hotel. - Went bath & agreed to go out. - Left hotel  
 about 10:30 P.M. - left car, parked in front of hotel &  
 started to walk to Boris's home. -  2 1/2 blocks  
 from hotel, and near church on North Street - found  
 Boris's wife & man behind her say, "Hey Mike!"  
 I was standing behind them. She, an  
 American had had U.S. coat made. Mrs. - had  
 black information. Mrs. did not tell. "Let be  
 quiet and you will get out." He, want your  
 money & more jewelry. - Wife said to give it to  
 them. - Mrs. said she was being smart - American  
 asked names for ring, watch & money. - Mrs. took  
 Mrs. Her rings and then said, "Let give me  
 your bracelets." - Mrs. hearing all these  
 they were going across under for, and was the top.  
 Mrs. reading it. asked him out of it. -  
 "Let +  
 Court and at 5 Min. & don't be sure about  
 we will come back & next time we must be



Defendant's Exhibit AA)

Claim No. 4 - 40A Co. Cont. Ins. Amt. of Loss 3950  
 Policy No. IMW 62001  
 Broker Borg- Expires 6-2-40 Koldys-  
 Agent Beatty- Total Amt. \$ 3950.-  
 Form A.R.-Gr 7 Proof Instructions

Assured Sydney M. Williams & Elizabeth J. Williams

Res. Address 3418 La Touche Dr., - Ph. 4039

Bus. Address 24 - Ph. 613

Occupation Attorney - Springfield - and both in

Date Lost 12/21/39 Location Salinas -

Item No. 1. One Plat. Dia. Watch with dia. bracelet

attached containing 84 dia. + 2 bgs. - \$350.-

4. One dia. bracelet set in

Plat. with Prop. center + 24 full cut

dia. wt. approx. 5 ct. - 100.-

5. One Plat. dia. engagement ring

center stone wt. 3 ct. - also

containing 8 bgs. + 22 round dia. - 1800.-

6. One gents ring - meaning

set 2 ct. center. - 900.-

Appraised By E. M. Spitz - 6/12/40 Val. Est. 3950

Purchased From 77704

Reported 12/2/40 by Edward Spitz/Beatty

Remarks #5 - Contact 300.-

Reporting Instructions:





## EXPENSE ACCOUNT

TELEGRAMS		TELEPHONE		MISC.
		1/2 Yuma	\$60 ✓	
				1/10 Potosi 500
				1/16 Detail Credit Co. 50
				1/20 R. John Lynamt. 50
		<b>ADVERTISING</b>		
				2/5 Potosi 500
				3/8 Lytle Co. 71 10
				4/9 20
<b>TRANSPORTATION</b>	<b>ADJUSTMENT RECORD</b>			
	<b>DATE</b>	<b>TIME</b>	<b>AMOUNT</b>	



Defendant's Exhibit AA)

## STATEMENT OF LOSS

5000 11-28 MBS

ATE By Phone, Letter Interview, *cont.*

15. mi. -  
 about 2 mi. or less, found a car starting at  
 terrific speed. Mr. Brown ran to Brown. Told  
 them and ~~called~~ Mr. Brown rushed them to the  
 Police Dept. Reported to police. = Delays to ~~Police~~ office.

#1. - Mexican. - in 20 yrs.  
 Shy, plump.  
 Bleached, shaggy.  
 5'6"  
 Thin.  
 Dark brown.  
 Light coat.  
 Light hat.  
 Very cool.  
 Good English but Spanish accent.

#2. American.  
 Age - 20 +  
 Full face.  
 5'6" or 7"  
 Wt. = Stocky & heavy.  
 Dark hair.  
 Gray hat.  
 English - no accent.  
 Very cool.

Believed to be driving 1936 Chev. Dark blue or black.  
 also believed to be holding up gas stations.  
 This dept. not active.



(Testimony of Robert L. Reynolds)

Mr. Penney: We don't seem to have much in common, your Honor.

Q. By Mr. Davis: Mr. Reynolds, I will ask you if, on a certain occasion, Mr. Lewbel came to you, and, in order to direct your attention to the occasion, said something to you about Mr. and Mrs. Williams were having domestic trouble? A. Yes, he did.

Q. Do you recall approximately when that was?

A. Well, if I remember correctly, it was more than a [368] year after this claim was handled, because I had difficulty for a moment in placing the case in my mind when he mentioned it, and I had to dig out my file to find out what he was talking about.

Q. I will ask you if at that time Mr. Lewbel did not state to you that the Williams were having or were about to have a divorce trial, and there might be some fireworks, and some question might come up as to whether or not this robbery was real, and that he, Lewbel, didn't think there was anything to it, but, if anything came up, he would let you know? Did Mr. Lewbel make that statement to you, in substance or effect?

A. Those aren't his words, but, as I recall, he came to me and said that the Williams were having some domestic difficulty, and that there were being some charges and counter-charges made by the parties, which might develop into something of interest to the insurance company, and he thought that I ought to know about it. Well, at that time, it sounded like another one of those cases of

(Testimony of Robert L. Reynolds)

family squabbles, so I didn't pay much attention to it. But he advised me that he was going to be at least an interested spectator at these divorce proceedings, and if anything did develop of interest to the company he would keep me advised.

The Court: Did he mention anything about a fake holdup then, or a charge that there was or wasn't a fake hold-up?

A. I don't recall that the words "fake hold-up" were [369] used at all.

The Court: Or any other word synonymous with "fake"?

A. Yes; he told me that there were going to be statements made that made that hold-up questionable.

Q. By Mr. Davis: Did he ever give you any further information on that?

A. At that time Mr. Lewbel was in and out every few days, and he would pass a remark once in a while about the case, but I am unable to recall any time that he ever told me that anything particularly definite had been developed, and it was not until many months later that I learned that the insurance company was pressing a case on the matter.

Q. That is all that you were told about it?

A. Yes.

Mr. Davis: The defense rests. [370]

\* \* \* \* \*



SYDNEY M. WILLIAMS,

having been heretofore duly sworn, upon being recalled in surrebuttal in his own behalf, testified as follows:

Direct Examination.

Q. By Mr. Penney: Mr. Williams, do you know an Edith Simpson? A. Yes, sir.

Q. Have you ever been at her home?

A. On several occasions.

Q. Did you ever meet Mrs. Berrenberg at her home?

A. To the best of my knowledge, I never saw this lady until she walked into this courtroom.

Q. Did you ever at any time take your wife over to her home and leave your wife in the car, and discuss your marital troubles with Mrs. Berrenberg? A. Never.

Mr. Penney: You may cross examine.

Cross-Examination.

Q. By Mr. Bledsoe: Mrs. Simpson is interested in metaphysics?

A. Not that I know of. She is in politics, as far as I know. She used to be out here at the jail.

Q. Do you remember seeing Mrs. Berrenberg at the Hall of Records some time after the divorce suit was filed? A. No.

Q. Do you ever remember her coming up to you and [371] telling you that Betty was in a bad way financially and you should help her out? A. No, sir.

Q. Are you certain you never did?

A. To the best of my knowledge, I have never seen that woman before she walked into the courtroom.

Q. Did you ever drive Betty to her home, to the best of your knowledge? A. Never, no, sir.

(Testimony of Sydney M. Williams)

The Court: What do you mean "to the best of your knowledge"—to the best of your recollection?

A. To the best of my recollection, yes, your Honor.

The Court: Do you mean by that that it is possible that you have met her and don't recall it to your mind at the moment?

A. Yes.

The Court: Do you wish me to understand that you are testifying here positively that you did not meet her at Mrs. Simpson's home?

A. No, I couldn't do that. Casually I might have met her.

The Court: Your answer is that you don't remember having met her before?

A. That is correct. But I know definitely that I have never been to her home with Betty or anyone else.

The Court: You wish me to understand that you might [372] have met her, but you don't recall her?

A. No; I wouldn't say I never met her.

Mr. Penney: That is all.

The Court: By the way, perhaps all of counsel will want to object to his. I have here before me the file in the divorce trial in the Superior Court, No. D-198,085. I find in this file, on the pink sheet, a copy of the minute order in Judge Lindsey's Department 14, of October 24, 1940, in the case of Sydney M. Williams v. Elizabeth J. Williams, No. D-198,085, CCC 1432, "Order to show cause re attorneys' fees transferred from Department 8 comes on for hearing, with petition for conciliation." You filed a petition for conciliation in that matter, did you?

A. Yes, your Honor. I had a youngster. That was mine.

(Testimony of Sydney M. Williams)

The Court: "Plaintiff present with his attorney Robert Agins, and defendant with her attorney, S. S. Hahn. The matter is referred to Director of Conciliation Bates for findings of fact and recommendation. The court orders amicable settlement as agreed. The amount of \$400 now in the bank's hands is to be divided between them if agreeable to the bank. Wife is to turn over two diamonds belonging to husband forthwith. She is allowed to rent the home and live on the proceeds. File ordered sealed. Case continued to November 8, 1940, at 10:00 A. M."

You were present on the hearing referred to there, on October 14, 1940? [373] A. Yes.

The Court: Did you make an agreement to the effect that—well—the court orders amicable settlement as agreed. Did you come to an agreement with your wife separately or through her attorney?

A. Through the attorneys.

The Court: And part of that agreement was that the wife was to turn over two diamonds belonging to you?

A. Yes, sir.

The Court: Were those described under oath by anybody at that hearing, or was this an informal hearing?

A. They were described by me; I explained what they were.

The Court: Informally or under oath? This was a conciliation hearing conducted by—

A. Everybody was sworn. It was a regular hearing.

The Court: You described the diamonds, did you?

A. Yes, sir.

The Court: How did you describe them then?

A. The Elks pin and the diamond ring that I got from the gentleman that testified today, that was in this little green box, along with her wrist watch.

(Testimony of Sydney M. Williams)

The Court: That is the diamond you yourself testified to the other day, or Mrs. Williams said that you had had for some time?

A. The one I bought for Mickey. It isn't on the loss [374] at all. These two diamonds have nothing to do with the hold-up.

The Court: Just a minute. One of the two diamonds was the Elks pin?

A. That is right, and the other—

The Court: And the other one was a ring?

A. Yes.

The Court: Where is the ring?

A. She has it. The court ordered her to return it also; in Doyle's court it was mentioned again, but she didn't return it, and then I reduced it to a judgment, and we filed suit for claim and delivery and got a judgment from the court there, because she never obeyed the court order, and to this day she still has the Elks pin and that ring I bought for Mickey.

The Court: You have a money judgment for the Elks pin?

A. Yes, your Honor.

The Court: On August 4, 1941—reading from the same file, No. D-198,085, Sydney M. Williams vs. Elizabeth J. Williams, there appears to be an affidavit signed Sydney M. Williams, August 4, 1941, before Aimee Schoff, and then the following appears. This is an affidavit for order to show cause *in re* contempt. "The court ordered defendant to return a diamond ring and an Elks diamond pin to plaintiff." Is that the same diamond ring?

A. Yes, it is. [375]

The Court: In any of these pleadings in this divorce suit was there any mention by either of you, in any papers

(Testimony of Sydney M. Williams)

you filed, by way of pleadings or affidavits or in oral testimony, of any other jewelry?

A. No, sir. And if I may—

The Court: There was not?

A. Not in the pleadings.

The Court: Pleadings, affidavits or testimony?

A. Yes, in testimony. It has nothing to do with this case, but Mrs. Williams testified that when she married me she had handfuls of diamonds, and that she sold those diamonds in order to put the money into Claudette, and the court made a finding that there were no such diamonds.

The Court: What do you mean by "put the money into Claudette"?

A. It was a company I owned. There was also testimony—

The Court: Just a moment. Were those diamonds specifically described in the testimony? A. No.

The Court: They were not?

A. No. They were described as this one girl got on the stand and said, "She showed me fistfuls of diamonds." That was the type of testimony.

The Court: I urge counsel for all parties not to hesitate to call my attention to any objection they might [376] have to this line of testimony.

Mr. Penney: I have none at all, your Honor.

The Court: There is also in this file an affidavit bearing the filing stamp of September 8, 1941, file No. D-198,085, Sydney M. Williams vs. Elizabeth J. Williams, on the title page of which appears as counsel proffering it for filing, the name Robert B. Agins, attorney at law, 6253 Hollywood Boulevard, Los Angeles, California, Hollywood 7305, attorney for plaintiff. Was Mr. Agins your attorney at that time? A. Yes, sir.



(Testimony of Sydney M. Williams)

The Court: Was he your attorney throughout the divorce proceeding? A. Yes, sir.

The Court: The document I have just referred to is entitled, "Affidavit in support of Motion for Return of Certain Personal Properties belonging to plaintiff"?

A. Yes, sir.

The Court: It appears to be an affidavit wherein the affiant is named as Esther A. Dominguez, and it is signed Esther A. Dominguez, and dated the 4th day of September, 1941, before Monte E. Livingston, notary public in and for the County of Los Angeles, and on the back, "Robert B. Agins," and it bears the indication that it was served on the 8th day of September, 1941, upon the attorney for the defendant, by the signature of S. W. Thompson, attorney for defendant. Now, I will ask you, did you ever read that [377] affidavit?

A. Yes, but the affidavit where it says—

The Court: Just a moment.

A. I read it the other day.

The Court: I call your attention to this particular part of it on page 1, line 20: "That your affiant further knows of her own knowledge that prior to the Interlocutory Decree of Divorce your affiant had cash—"

A. That is a different—

The Court: I understand. Esther Dominguez was your previous wife? A. Yes.

The Court: "That your affiant further knows of her own knowledge that prior to the Interlocutory Decree of Divorce your affiant had cash in the vault of your affiant and Sydney M. Williams in excess of \$5,000 and numerous diamonds, which your affiant had obtained during the said marriage in lieu of attorney's fees and by purchase."



(Testimony of Sydney M. Williams)

A. That is referring to those Rosenthal diamonds that I had.

The Court: Just a moment. Just a moment. Did you know about this affidavit before it was filed?

A. Yes.

The Court: So today was not the first time you had read it?

A. No, I read it to counsel today. [378]

The Court: That was the first time counsel had seen it?

A. That is right.

The Court: The diamonds referred to in this affidavit, if you know, were they the diamonds that are described in the plaintiff's complaint? Did it include those diamonds?

A. Yes, your Honor.

The Court: The Elks pin? A. No.

The Court: It didn't include the Elks pin?

A. No. It included the watch and the 3-carat stone. Yes, the Elks pin.

The Court: The 3-carat stone?

A. I was wearing that.

The Court: The point I am particularly calling your attention to now, counsel, is, "That your affiant further knows of her own knowledge that prior to the Interlocutory Decree of Divorce"—and, as you have indicated, that was an interlocutory decree of divorce between yourself and the person who, at the time this affidavit was made, was named as Esther Dominguez, prior to December 31, 1938. With that in mind, I will now ask you—"affiant knows of her own knowledge that prior to the Interlocutory Decree of Divorce"—prior to December 31, 1938—"your affiant had cash in the vault of your affiant and Sydney M. Williams in excess of \$5,000 and numerous

(Testimony of Sydney M. Williams)

diamonds." Does this testimony show that you acquired diamonds mentioned in the plaintiff's [379] complaint—Did those include these diamonds and the numerous diamonds—

A. In 1936 I got those diamonds.

The Court: All of these diamonds?

A. In 1936 I got a diamond wrist watch in that deal—I will tell you—in 1936, from Max Rosenthal.

The Court: You got all these diamonds before December 31, 1938?

A. I will tell you what I did have. The pin, the Elks pin, the ring I wore—

The Court: That is No. 6 on the list?

A. That is right, your Honor; No. 1 on the list, and No. 5 on the list, as I testified, I got from Max Rosenthal on that deal.

The Court: The numerous diamonds referred to does not include the platinum diamond wedding ring or the diamond wedding ring or the diamond bracelet?

A. No, sir.

The Court: I have no other questions.

Mr. Penney: Just a moment. I have a few questions.

The Witness: Your Honor, I don't want to speak out of turn, but I want to—

The Court: No. You have got a pretty good lawyer here.

The Witness: May I talk with him a moment?

The Court: If you wish to consult with him, you may have that opportunity. Suppose you be seated over there, [380] and, if I may, I will interrupt the proceedings for a moment here with an *ex parte* matter.

(Short intermission for *ex parte* matter.)

(Testimony of Sydney M. Williams)

Redirect Examination.

Q. By Mr. Penney: Mr. Williams, the court has interrogated you in regard to an affidavit that was filed by Esther Dominguez. Will you explain now what the purpose of filing that affidavit in the divorce action was?

A. Yes. Mrs. Williams, that is, Elizabeth Williams, had made claim that certain of this property was her separate property, not community property, and the purpose of that affidavit—

Q. Tell us the purpose of the affidavit.

A. The purpose of the affidavit—

Mr. Davis: I am going to object to it as immaterial. The affidavit speaks for itself.

The Court: It is in support of an order to show cause. I have been practicing law for almost 30 years, and if you want to put it in the record for the benefit of the members of the Circuit Court of Appeals, they might appreciate it. Maybe they might need it more than I do.

Q. By Mr. Penney: Mr. Williams, in any of the proceedings against Mrs. Williams, have you ever made any threat against her for any other jewelry containing diamonds, other than the diamond ring which you bought for Mickey and the Elks pin, which contained diamonds?  
[381]

A. No, sir, never.

Mr. Penney: That is all.

Recross Examination.

Q. By Mr. Bledsoe: The Elks pin had five large diamonds on it? A. One on each antler.

The Court: How many antlers—five?

A. Five, I think. I think there are five on an Elks pin.

(Testimony of Sydney M. Williams)

Q. By Mr. Bledsoe: What was the size of it?

A. It was a large one.

Q. What was the size of the stones?

A. I would say they were about a quarter carat apiece.

Q. Five large stones? A. That is large.

Q. Quarter carat?

A. On a pin; I would say so, on an Elks pin.

The Court: Was it encrusted with diamonds?

A. No—solid platinum mounting.

The Court: Those were the only diamonds?

A. That is right.

The Court: Have you examined Plaintiff's Exhibit No. 7 here, the watch, and No. 8, the ring?

A. When I was on the stand I looked at them, yes.

The Court: Have you examined them since the recess?

A. No, sir. [382]

The Court: You have not? A. No, sir.

The Court: Have you finished?

Mr. Bledsoe: I would like to suggest one more question.

Q. Where did the court make the finding you have referred to that Mrs. Williams had no diamonds which were sold to put into Claudette?

A. When the court made its—started to sum up the case.

Q. Orally?

A. Yes. And we had a transcript of it made up, some place.

Q. Have you got it?

A. I don't have it right here.

Q. Not a finding of fact?

(Testimony of Sydney M. Williams)

A. No. It was taken down, however, by the reporter. The reporter has it, and we ordered that part of it written up, and we have it some place.

Q. Isn't it a fact that when you were in the Conciliation Court, that you spoke privately to Mrs. Bates before Mrs. Williams was called in there?

A. No, sir. To the best of my knowledge, she called counsel and myself in first, and then called her in.

Q. Did you tell Mrs. Bates that Mrs. Williams had a 3-carat unmounted stone and a 2-carat unmounted stone?

A. Certainly not. [383]

Q. Did you request her to make an order that they be returned as your property?

A. Certainly not. After she said she had taken them out of this little green box, the order was made for her to return them.

The Court: Return what?

A. The pin and the ring.

The Court: He was talking about a 3-carat stone unmounted.

A. And I told him that was not said. May I correct that? What I mean, the Elks pin and the ring I got for Mickey is what was described there and what she was ordered to return.

Q. By Mr. Bledsoe: The ring you were wearing, covered in the proof of loss, the ring you were wearing was practically two carats? A. That is right.

Q. What was the size of the ring you bought for Mickey?

A. I would say that was about a carat, probably a carat and a fifth.

(Testimony of Sydney M. Williams)

Q. Didn't you tell us previously here that it was less than a carat? A. No.

Q. Didn't you say it was a small man's ring and you put it away for your boy? [384]

A. It was a ring around a carat. I never measured the stone. I told you I took it down to Mr. Laykin and he told me if I would drop it on the counter he would give me \$400 for it.

Q. Was it as large as the stone you say you were wearing at the time of the alleged hold-up?

A. No, sir, it wasn't near as large.

Q. It wasn't a two-carat diamond?

A. No, sir.

Q. At the time you filed the affidavit with the court in the divorce suit, did you list any separate property?

A. Yes.

Q. Did you list this Elks emblem with the five diamonds or the man's ring, as part of your property?

A. I don't remember if I did or not.

Q. I show you an affidavit filed October 24, 1940, in the Superior Court case, No. D-198-085, and ask you to show us where you claim to have owned two diamonds, two rings, one ring with emeralds, as your personal property?

A. On this you have just showed me, it is not on here. However, later on in the case it is.

The Court: Will you find that? A. Yes.

The Court: I found the order where they ordered the return of the diamond pin and the ring, but he is speaking now of an affidavit or something sworn to by you. [385]

The Witness: That you read a short while ago, where I was applying for a contempt order, where I set forth the Elks pin and the ring.



(Testimony of Sydney M. Williams)

The Court: That is the only other one, but there is no affidavit listing that as part of the inventory of your separate property?

A. No. There are probably some other things here too.

Q. By Mr. Bledsoe: Later on, in the civil suit, in the case you filed against Elizabeth, didn't you testify that the man's ring was a 90-point carat diamond ring?

A. No. By 90 points—100 points is a carat.

Q. Wasn't it a 90-point diamond ring?

A. It was about a carat; that is all I know. I did not measure it. I never had it measured. Mr. Laykin told me it was approximately a carat. It was never measured. It could have been under or over. It depended on how deep it was. I don't know.

Q. Then if the ring which you purchased from Mr. Marcin for \$250 was almost two carats, that would not be the ring you are referring to there?

Mr. Penney: I am going to object, your Honor.

The Court: Referring to "there"—I don't know what "there" is.

Q. By Mr. Bledsoe: The ring you have been referring to.

The Court: In the claim and delivery suit? Let's see the file. [386]

The Witness: I am definitely referring to the ring I bought for Mickey.

Mr. Penney: May I interpose an objection, on the ground that the question is assuming parts of things other witnesses testified to and trying to put them in the mouth of this witness, and framing the question on that theory, and I am going to object to the form of the question as being improper.

## (Testimony of Sydney M. Williams)

The Court: He has a right to assume all or any portion of anything that has been testified to.

The Witness: What is the question?

Mr. Bledsoe: I think you answered it.

The Witness: I said I definitely referred in both lawsuits to the ring I got for Mickey and to the Elks pin.

Q. But the ring you got for Mickey was not a ring over two carats?

A. It was not. No. 6 was a 2-carat ring I have had since 1928, counsel.

Mr. Bledsoe: That is all.

Mr. Taylor: I desire to call Mrs. Williams.

The Court: That is all your rebuttal?

Mr. Penney: Yes, your Honor.

The Court: You now rest again?

Mr. Penney: We rest the second time. [387]

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ELIZABETH J. WILLIAMS,

a witness heretofore duly sworn, upon being recalled, testified as follows:

## Direct Examination.

Q. By Mr. Taylor: Mrs. Williams, calling your attention to Plaintiff's Exhibit 7, state whether or not you at any time placed any identifying mark on that wrist watch?

Mr. Penney: To which I object as not being surrebuttal. A. Yes, sir.

The Court: That is correct. It is not. It is new matter, but nobody testified to it.

(Testimony of Elizabeth J. Williams)

Q. By Mr. Taylor: Mrs. Williams, were you present at the conciliation hearing referred to a few minutes ago by both his Honor and Mr. Williams?

A. Yes, sir.

Q. Do you recall mention of two items of jewelry?

A. Yes, I remember it.

Q. Will you relate the two items of jewelry that were referred to in that particular conciliation hearing?

A. Two uncut stones.

Q. What size stones?

A. Two-carat and three-carat.

The Court: Did you mention them?

A. No, sir.

The Court: Who did?

A. Mrs. Bates mentioned them. [388]

The Court: Mentioned them to you?

A. Yes, sir.

Q. By Mr. Taylor: Let me ask you this: Did you and Mr. Williams go into the conciliation hearing together?

A. No, sir.

Q. Who went in first? A. Mr. Williams.

Q. And then you went in? A. Yes, sir.

Q. Who brought up the subject of the two stones you are referring to?

Mr. Penney: I am going to have to object to this, because I don't want to be bound by something Mrs. Bates stated.

Q. By Mr. Taylor: Was Mr. Williams present when you were in there with Mrs. Bates?

A. Not when I first went in.

Q. Subsequently did Mr. Williams and counsel come into the meeting? A. Yes.

(Testimony of Elizabeth J. Williams)

Q. State whether or not at that time there was any conversation relative to the two uncut stones?

A. There was.

Q. In Mr. Williams' presence? A. Yes.

Q. Relate the conversation. [389]

A. When I first went in, Mrs. Bates said, "What do you mean—"

Q. This was when Mr. Williams was present?

A. No—before he came in.

Q. Let us confine the conversation to when Mr. Williams was present.

A. Mrs. Bates asked me to return the two-carat and the three-carat uncut stones to Mr. Williams.

Q. Did you agree to do it? A. No, sir.

Q. Was there anything else said relative to this particular subject?

The Court: Did you tell her you wouldn't agree to it?

A. I couldn't tell her I had them, your Honor, because they were involved in this robbery.

The Court: Did you say you wouldn't do it?

A. I told her I didn't have them, and then they later took me into Mr. Doyle's court.

Q. By Mr. Taylor: Have you told us all the conversation, as far as you remember what you and what Mr. Williams said, if anything, with reference to the two uncut stones?

A. That is about all. And we discussed about my getting the house.

Q. Did you appear subsequently in Commissioner Doyle's court? A. Yes, I did. [390]

Q. Was Mr. Williams also present in court at that time? A. And also Mr. Lewbel.

(Testimony of Elizabeth J. Williams)

Q. Did you testify in that hearing?

A. Well, yes, I did.

Q. Did Mr. Williams testify?

A. We were all at the table. I didn't get on the stand.

Q. Relate, as far as you can recall, what was said at that particular hearing with reference to the uncut stones, if anything.

A. Mr. Williams wanted me to return a 3-carat uncut stone and a 2-carat. The 2-carat wasn't mentioned so much, but it was the 3-carat.

Q. I am sorry I referred to uncut stones.

A. Unset.

Q. I believe as I framed the question I said uncut stones. What I really meant was unset. You are now referring to a 3-carat unmounted stone; is that right?

A. Yes, sir.

Q. Go ahead and relate what was said.

A. And I told Mr. Doyle I could not return them, because they were the stones that figured in the robbery. And Mr. Lewbel was there, and Mr. Williams was there, and Mr. Thompson said, "Why haven't you told me this before?" And Mr. Williams jumped up and said, "I will go to the [391] District Attorney's office about this," and that was—well, anyway, in a couple of days Mr. Lewbel went to the insurance company and reported it. Mr. Lewbel testified yesterday that he was there.

Q. Have you related everything, as far as the testimony was concerned at that hearing, relative to these unmounted stones?

A. Yes, sir.

Mr. Taylor: I have no further questions.

(Testimony of Elizabeth J. Williams)

Mr. Penney: Whose turn is it?

The Court: I think it is anybody's turn, whoever gets to the lectern first.

Cross Examination.

Q. By Mr. Penney: You were under oath in that Doyle court, weren't you?

A. No, I don't believe I was. We were at the table. He had taken me in court.

Q. Didn't you swear to tell the truth, the whole truth and nothing but the truth at the hearing in Mr. Doyle's court?

A. No, I wasn't put on the witness stand at all. I don't remember being sworn in at all.

Q. But you told Mr. Doyle that you couldn't return the 2-carat stone, because that had been taken on the robbery, didn't you?

A. A 3-carat stone.

Q. Because it had been taken in the robbery? [392]

A. I said it figured in the robbery.

Q. And that you didn't have it?

A. I couldn't return it. How could I return it? I would have involved myself and Mr. Williams and everybody.

The Court: Did you have the stone at that time?

A. No, not at that time, I didn't have it.

The Court: You didn't have it?

A. No. That was after the suit for divorce and after the stones were taken.

The Court: You mean taken through the panel of the door that was cut out?

A. Yes.

\* \* \* \* \*

The Court: Do you have any other witnesses?

Mr. Penney: No, your Honor.



The Court: Go ahead.

Mr. Penney: I think that is all. [393]

\* \* \* \* \*

The Court: It has been very difficult to know who to believe in this case, but I think the plaintiff is entitled to judgment. I am not satisfied, after listening to all of the testimony and all of the witnesses. Every case always leaves something wanting. But I am not satisfied that the defendant Sydney Williams actually suffered a hold-up. In other words, I believe he did not suffer a hold-up, and that the claim presented to the insurance company was a false claim and was fraudulently made.

It being late, I will not attempt to analyze the evidence nor the testimony of the witnesses. The question arises in my mind as to just who this judgment should be against. There isn't any cross complaint or any pleading of that kind. Between the two defendants here, is the plaintiff entitled to judgment against both defendants for the total amount, or is the plaintiff entitled to judgment against Mrs. Williams for the ring and the watch that she has in her possession? Has there been an adjudication that they belong to her? [395]

Mr. Davis: No, there has not, your Honor. I think we are entitled to judgment against both of them. We are not claiming the watch, because we obviously can't claim the watch.

The Court: I am talking about the watch which is in evidence here, item No. 1 on your list.

Mr. Davis: That watch was delivered to us by Mr. Taylor, and was not given to us, and we have no understanding about it.

The Court: Is it in issue in this case? Do you have title to that watch?

Mr. Davis: No, I don't think it is. It is simply evidence in court at the present time.

The Court: I know it is simply an exhibit in the court, but you are claiming a judgment here, and, quite obviously, Mr. Williams has testified under oath here, and in the divorce case it was stipulated that he so testified, and it appears from the affidavit which was made here that all of this property was his separate property. If it is his separate property, and he secured a money judgment, obviously Mrs. Williams should not have a judgment against her for the total amount in this case.

Mr. Davis: That is true. I thought your Honor was asking my opinion on the other.

The Court: I am asking counsel their opinion on the matter of the platinum watch and the diamond friendship ring [396] which she has and has had in her possession.

Mr. Taylor: That is true. However, I call attention of the court to the fact that the testimony is undisputed that Mrs. Williams claims she so testified, that she did not receive any of the \$4,250, and I don't believe there is any evidence to contradict her.

The Court: She endorsed the check.

Mr. Taylor: She endorsed the check and testified she gave the money to Mr. Williams.

The Court: I don't think the issue is properly raised so as to permit a divisible judgment here. I think it might have been raised by a special defense in the answer. Accordingly, the judgment will be in the form prayed for against both defendants, Sydney Williams and Elizabeth Williams.

\* \* \* \* \*

[Title of District Court and Cause.]

Hon. Peirson M. Hall, Judge Presiding.

REPORTER'S TRANSCRIPT OF MOTION FOR  
NEW TRIAL.

Appearances:

Messrs. Hindman & Davis, by  
Eugene Davis, Esq., and  
Huntington P. Bledsoe, Esq.,  
For Plaintiff.

George Penney, Esq.,  
For Defendant Sydney M. Williams.

\* \* \* \* \*

The Clerk: No. 2738-PH-Civil. Hearing on motion for a new trial.

Mr. Penney: Your Honor, I have subpoenaed Mr. Ganahl and Mr. Greenbaum in court. I prepared a memorandum brief on the question as to whether or not the testimony is privy, and I think if the preliminary facts are brought out the court will agree with me there has been a waiver of privy. I would like to put them on if the court will permit me to do so.

Mr. Bledsoe: I think it is proper to argue the motion first. We haven't received any points and authorities. It might be a mistake on the part of counsel. We waited until yesterday to prepare counter points and authorities upon this motion. I have some here which I would like to file at this time if I may. We haven't received any points and authorities from the moving party, however.

Mr. Penney: I am sorry I overlooked it, your Honor.

The Court: You may file them now.

Mr. Davis: If I may address the court, we have three of us on our feet now.

The Court: That is good.

Mr. Davis: I just talked with Mr. Taylor's secretary and asked her if he was coming up, and she said he got a [2] call last night that his mother was critically ill in Berkeley and he had to leave, and he didn't tell her anything about this case.

The Court: Let me see, I have forgotten who Taylor is.

Mr. Davis: Taylor was representing the other defendant.

Mr. Penney: I discussed the matter with Mr. Taylor, I gave him copies of all affidavits, I saw him twice since then, and he has advised me on both occasions that he didn't intend to come up and make any further appearance in this matter.

Mr. Davis: That is not my advice, but I don't say you didn't get your advice.

The Court: Mr. Ganahl and Mr. Greenbaum are members of the bar and had been consulted by whom?

Mr. Penney: By Mrs. Williams.

The Court: Mrs. Williams?

Mr. Penney: That's right.

Mr. Bledsoe: If the court please, I don't know what they would testify to, but it seems an attempt to impeach one of the co-defendants, one of the witnesses, and we have cited some authorities that that is not proper at this time, if that is the purpose of it. I don't know what other purpose it could have. Mr. Penney does not state in his affidavit what they will testify to, or whether it will be impeaching, corroborating, or what it might be.

Mr. Penney: I think the court can appreciate the [3] unfortunate position I was in in this case, consulting with two attorneys, both of whom felt that in justice to themselves they shouldn't make an affidavit.

The Court: I can see that, but the point is this: There is no showing here that neither one of them or either of them was not available for the service of process of this court during the time of trial. They both reside in Los Angeles and have their offices here. There is no showing of any diligence beforehand, so that no matter what they might testify to I doubt the propriety to taking such testimony, or their sworn statements at this time.

If, for instance, it came as a matter of complete surprise, or if it came as a matter involving their absence or their unavailability, perhaps that might put a different complexion on the matter.

Mr. Penney: Your Honor, may I call your attention to the fact that on the 10th day of December was the first time that we were given the opportunity of examining her under oath, and at that time—

The Court: Was that the deposition?

Mr. Penney: That's right, that was the deposition. At that time, your Honor, she denied specifically making any disclosures to anyone except Mr. Taylor and to Pinky Thompson. That was the 10th of December. I had no way of knowing until later on, when I attempted to find out who the assistant of Pinky Thompson was, I then ascertained that she had consulted [4] Mr. Greenbaum, a fact which she denies in her deposition. She says she made no disclosure to anyone except to three parties. Now, how am I going to refute that situation? I am helpless.

Mr. Bledsoe: Could I reply? By counsel's own statement he has shown this is impeaching testimony. I assume he wants to show that one of the co-defendants made a statement to either one of the two counsel, either that there was or was not a robbery.

Now, as shown by the affidavit, he could have taken the deposition of the co-defendant had he so desired, that is, defendant Williams, for approximately a year. It wasn't done.

And as also shown here, on Sunday morning after he had heard what she had to say, he had plenty of opportunity, the defendant did, to interview these people. I talked to all of them except attorney Ganahl, as shown by my affidavit, and I had no difficulty whatsoever; so there isn't any element of newly-discovered evidence or diligence. In fact, impeaching evidence is not newly-discovered evidence.

And, further, as shown by our points and authorities if the plaintiff proves the allegations contained in its complaint, which the plaintiff did in this case, then there can be no surprise if the plaintiff proves what they allege the facts to be, and that is what we attempted to do here.

Furthermore, this evidence is evidence by a co-defendant [5] who was called under the court rule as an adverse witness under cross-examination, and we may or may not be bound by all of her testimony. The testimony, of course, favorable to the plaintiff can be considered by the court. The court can disregard any impeaching statements if she did make any, and I don't know as far as this co-defendant is concerned.

Furthermore, this would be impeachment upon an immaterial matter. It does not make any difference whether she did or did not tell either of these attorneys in a con-



fidential disclosure to them whether or not there was or was not a robbery. We know and she has testified that she hid the fact there was a robbery for a long time until they became involved in a divorce action, and then, naturally, as happens in all these cases she made a disclosure, and that is the only manner in which these matters that are so secretive are ever disclosed.

Mr. Penney: This involves the integrity of a member of the bar, and I don't think this court wants to have a fraud perpetrated upon him, and I am satisfied from the information which these men have given to me that if their story is told here I think that this court would come to a different conclusion, and I don't think in a matter of this kind that a man should be deprived of his right to practice law, and that is what this means, upon this testimony, if it is false testimony.

The Court: Well, the witness Elizabeth Williams [6] admitted on the witness stand that she made a false oath, she made a false oath in connection with the loss of the jewelry originally, and as I recall, that she repeatedly stated to different people that there had been a robbery, and made representations to that effect. So the testimony of the witness Elizabeth J. Williams was, naturally, received with caution, and I don't know that it would make much difference, even if it should be proven that she made other prior inconsistent statements to other people, because she has already admitted on the stand that she made a false oath, that she and her husband together did. Had there been no corroboration, I mean such as there was in this case, circumstantial corroboration of her story, it would not have been worthy of a great deal of credence.

Mr. Penney: I am satisfied, your Honor, if you will permit this evidence to go on, that it is most material.

As I say, I have been handicapped at all times. I stated in my affidavit, and it hasn't been denied, that I used all the diligence that it was possible for me to use to get this woman in for a deposition, and I was never able to do it until the 10th day of December. I knew nothing at all about Greenbaum, I knew nothing at all about Ganahl, I discovered that later on, and if the story which she has told them can be related on the stand—

The Court: How do you know what she told them?

Mr. Penney: I don't, your Honor, except I have been [7] advised by them if they are permitted to tell their story here that it would materially affect the story which she told the court here when she was called.

The Court: Has the transcript been written up in this matter?

Mr. Penney: Yes, your Honor.

The Court: The original doesn't appear to be filed. Yes, it is.

Mr. Bledsoe: There is nothing in the deposition of the co-defendant that would have led Mr. Penney to contact either Mr. Greenbaum or Mr. Ganahl; but for some reason or other, after the trial, as in all of this type of motion, after the trial they sit down—

The Court: That is the only time you make a motion for a new trial.

Mr. Bledsoe: I am talking about newly-discovered evidence. They sit down and think of a lot of things they should have asked the witness.

“We have affidavits,” or they could have seen so and so, and they want a new trial.

Now, if it were possible to keep on calling witnesses, I don't know when there would ever be an end to a trial.

I assume from what Mr. Penney has said that these two attorneys have already disclosed to him information. Whether or not it is confidential, I don't know. We are not in a position, of course, to raise the question of privilege, [8] because that is one which is personal to the co-defendant. She isn't here and her attorney is not here, and they have not made a motion for a new trial. If the court holds as a matter of law that privilege has been waived, then, of course, these attorneys can get up and state everything a client of theirs that has come into their office has told them: but still it would only be impeachment.

The Court: Mr. Penney, at this time I don't think I want to pass upon the question as to whether or not I should hear their testimony and make a determination that the privilege has been waived.

I am doubtful whether or not it would make a material difference, anyhow.

So if you will present any other points that you have in connection with your motion for a new trial, I would like to have you do so at this time.

I appreciate the compliment that both counsel paid to me in filing a ten-page memorandum on one side and a seven-page memorandum on the other, in that that presupposes that I know all about everything and that you merely have to put it in the record.

Mr. Penney: Then can we excuse the two witnesses at this time, your Honor?

The Court: I think so.

Mr. Penney: Your Honor, to begin with, we sometimes try our cases better afterwards than we do during the course [9] of the trial. There have been a good many things, perhaps, that I overlooked, but there is one thing

in particular, however, and that is the physical evidence in this case.

Since the trial I have had occasion to check these two articles that were offered here, and neither of those two articles complies with the description in the complaint itself. The watch is 22 diamonds short of the description. That calls for 86 diamonds. This watch here has but 64.

The ring calls for 14 small diamonds, and this ring here has but 12.

The Court: I think that was noticed during the trial and was commented on, if I remember. Somebody counted them. I know I counted them at the time, and there was some question about it. As I remember, there was some examination of a witness as to the difference.

Mr. Penney: If there is, I don't find it in the record, your Honor.

The Court: I may be in error on that, but I remember the question being brought up and discussed at the time of the trial.

Mr. Penney: I recall the discussion with regard to the ring, and I think Mr. Williams was asked whether or not he could count them, and he said without a glass he didn't know, but he thought there were but 12 diamonds in the ring.

So far as the watch is concerned and the bracelet on the watch, I didn't count those until after the trial and [10] discovered there were 22 short.

Maybe the court did that. If you did, you did it on your own, but so far as I was concerned I had overlooked it. Your Honor, if I may go over some of this evidence and call the court's attention to some of the discrepancies. I want to direct your attention, first, to page 35, and that

was the question of the conversation leading up to this robbery. She states on page 35 as follows:

"The Court: You said you had some conversation with your husband before you left Los Angeles about the trip to Mexico. What was supposed to happen?

"A—A robbery.

"The Court: That was before you left Los Angeles?

"A—Yes.

"The Court: What was said? Whose idea was it? Was it your idea?

"A—No. It was Mr. Williams'. He wanted the money to play the market.

"Q—What did he say to you?

"A—He came home and told me that he wanted to collect the money on the diamonds, because he needed it in the market.

"Q—What did you say?

"A—Well, I don't recall just exactly what I said.

"Q—Well, the substance of what you said? Nobody remembers exactly what they said, or very seldom, anyway.

"A—We just talked, and he said he needed the money, [11] and that if the market went up he would pay it back, he would make it right with the insurance company.

"The Court: When did this idea come out about the robbery? Did he say he had it all planned?

"A—He had been talking about it a couple of weeks."

Now, your Honor, on the 10th, just two days before that, here is what she had to say about that.

The Court: That is in her deposition?

Mr. Penney: That's right.

The Court: What page?

Mr. Penney: It starts on the bottom of page 3, but the material matter is on page 4 on line 15.

"Q—When was the matter first mentioned to you?

"A—Two days before he went to Calexico.

"Q—Here in Los Angeles?

"A—Yes."

Now, the court will recall this strange testimony about him and her being in Burbank one night, and out of a clear sky—that was testified here—she said that he mentioned to her, "This would be a good place for a robbery," and she says that occurred two weeks before, and they laid plans, and two days before they went to Calexico they went out here and purchased this ring for \$1.95 or \$2.95.

In one place she says they talked about it for two weeks, and on the 10th she says the first time it was mentioned was two days before. [12]

Again, on page 28, your Honor.

The Court: Of the deposition?

Mr. Penney: No; of the transcript. I was interested very much in going over this to find out what she testified to in regard to the jewelry they took down there. She says here:

"Q—When did you arrive in Calexico on December 31st?

"A—It would be the day before.

"Q—Did you take any jewelry there on the day before?"

The Court: What line are you reading from?

Mr. Penney: Page 28.

The Court: All right.

Mr. Penney: "A—No, sir.



“Q—Of any kind?

“A—I don’t recall whether I took my cigarette case or not.

“Q—Did you wear any jewelry down there?

“A—No diamonds.

“Q—Did you wear any jewelry of any kind?

“A—Yes; I wore a ring.

“Q—Will you describe that ring?

“A—It was a ring we had bought at a Chinese store on Hollywood Boulevard.”

And then she goes on and testifies she paid \$1.95 for it. I beg your pardon. Then they went on further:

“Q—And that was all the jewelry you had with you?  
[13]

“A—No. Mr. Williams had his wrist watch.”

Those are the only two articles she testified to under examination by Mr. Davis, except on page 60 these questions:—

The Court: Page what?

Mr. Penney: Page 60.

The Court: Of what?

Mr. Penney: Of the transcript, your Honor. Mr. Davis says:

“And, as a result, you were interviewed by myself and Mr. McAnally?

“A—Yes, sir.

“Q—And you told the same story you are telling here now?

“A—Yes, sir.

“Q—At the time you were in Calexico you were wearing your wedding ring?

“A—Yes, sir.”

Again, your Honor, on page 9 of the deposition there is confusion in her mind in regard to this *Leach* matter, as to when she went down there to *Leach* and who made the suggestion. It starts on line 24:

“Q—Did you make the arrangements to go to Mr. Leach’s, or did Mr. Williams make the arrangements to go to Mr. *Leach*’s, or do you know?

“A—*Mr. Leach*, or between Mr. Williams and myself?

“Q—Well, I am speaking now about the occasion when you [14] went to San Diego in May or June of 1940, to dismount this jewelry.

“A—Yes, Mr. Williams called me from his office and told me we were going to San Diego.

“Q—And what else did he tell you, if anything?

“A—Why, we were going.

“Q—To dismount the jewelry?

“A—Yes.

“Q—Break it up?

“A—Yes, sir.”

Now, your Honor, I gather from this that Mr. Williams evidently knew Mr. *Leach*, called her up from the office and told her what they were going to do. They weren’t living together at that time. Before the court, however, at the time of the trial—I am reading now from page 48—when he calls her up he tells her exactly what he is going to do. On line 23, they have been talking about living apart, talking about closing his office:

When was it closed?

“A—The first part of 1939. And he came up to the house and said we were going to have the diamonds broken up.

“Q—By Mr. Davis: Did he state why?

“A—No, I don’t think so.

“Q—To dispose of them or sell the stones, or anything of that kind?

“A—I don’t know what reason he had for breaking them [15] up.

“The Court: He didn’t say?

“A—No.

“Q—By Mr. Davis: He said they had to be broken up?

“A—Yes, sir.

“Q—What was done? How were they to be broken up, or who would break them up?

“A—He didn’t know anybody, and he asked about Mr. *Leach*’s laboratory in San Diego.”

The Court: I think later Mr. Williams testified from the stand that he had met *Leach* before.

Mr. Penney: That’s right. He had met *Leach*, but he never went down to San Diego.

There is confusion in the transcript here as to what was done. You remember the story she told. He took some two by fours, and with a chisel or with a screwdriver and a hammer he hollowed out two places in two two by fours, and he places this jewelry in a handkerchief and he puts it in one of the holes, and he covers it with plaster of Paris. There is only one handkerchief and there are two holes, and you cover it with plaster of Paris and nail that together. In the course of the trial we went into some detail about that. I said:

“Q—How big a hole did Mr. Williams carve in these two by fours?

“A—Well, I can’t tell you exactly, but I imagine [16] about an inch deep.

“Q—And he did that with what?

“A—A screwdriver and a hammer, and I believe a small chisel.

“Q—He took the jewelry and placed it in the opening of the two by fours; is that right?”

and she goes on and describes it, and then I said to her:

“Q—You saw him cut two holes in these boards?”

“A—Yes: I was in and out of the room, and I saw him.”

On page 217:

“Q—Mrs. Williams, after this jewelry was broken up and put in this hiding place, whether it was under a board or in a box, was it all put in there together?”

I have skipped one here, your Honor.

The Court: She is talking about the box here now.

Mr. Penney: I skipped one here, your Honor. The court will remember she told that when they got back they put it under a board, and then they finally put it in a box. She testifies here in the last portion I read she was in and out of the room.

The Court: What page is that?

Mr. Penney: The last one I read to your Honor was on page 193 and 194. On page 41 she had described what he did with that, under direct examination by Mr. Davis:

“Q—Did you see him put them there?”

“A—I was in bed, but I knew what he was doing.” [17]

In one place she is in and out of the room; the next place she is in bed but she knew what he was doing.

Your Honor, to my mind that is one of the most fantastic things that I can imagine a man doing. Why he would take the trouble to take two two by fours and cut them out and put the jewelry in there, I would say would cast some suspicion on the story; and when she tells two different theories of that, one that she wasn't there, and the next time she was in and out of the room, I would say that the story doesn't ring true.

On page 217 we go into a very strange phase of this case.

The Court: As I read her testimony there on page 41, that is a continuation of the idea that he put the diamonds in the handkerchief and put them in there and put plaster of Paris on top of them to hold them in, on page 40. And there is a lot about a drink of water.

“Q—Where did he get the boards, do you know?”

“A—From an unfinished room off of our dressing room.

“Q—After he had done the chiseling and put the plaster of Paris on it, what did he do?”

“A—He put two nails in it, one on each end of the board.

“Q—Then what did he do with the result?”

“A—He put them in the unfinished room that I was speaking of, off of my dressing room.

“Q—Were there any other boards in there? [18]

“A—It is an unfinished room, and little pieces of board were left back there.

“Q—Did you see him put them there?”

“A—I was in bed, but I knew what he was doing.”

That is perfectly consistent. That question was she was not there when he threw the two by fours back into the attic, or whatever it was. That is the way I read that.

Mr. Penney: Maybe I put the wrong interpretation on that, your Honor.

The Court: After all, you are an advocate.

Mr. Penney: That is rather questionable at times, your Honor.

Your Honor, when they returned from this trip to San Diego, the court will recall that according to her testi-

mony there were two pieces of jewelry that were not broken up, a ring and a watch. And if there is any confusion at all in the mind of this woman, it certainly is confusing to read what happened to that ring and that watch. On page 217. I will go back far enough now to get the continuity:

“Q—Mrs. Williams after this jewelry was broken up and put in this hiding place, whether it was under a board or in a box, was it all put in there together?

“A—At that time, yes.

“Q—Every bit of the jewelry that is involved in this litigation here was put there; is that right?

“A—Yes, sir.” [19]

The Court: That is when she came back from San Diego?

Mr. Penney: That’s right.

“Q—And you were worried about it?

“The Court: Did you understand the question?

“A—All the jewelry that was in the robbery was put in the box.

“The Court: Was put in the box after you came back from San Diego?

“A—Yes, sir. The unmounted stones, the rings and the watch were put in the box.

“Q By Mr. Penney: All put in together?

“A—Yes, sir.

“Q—And you remained there until when?

“A—Not so long. He took the ring and the watch out.”

Now, on page 221. Remember, she took a trip, was gone a month, and came back sometime in August as nearly as she can remember it. That is on line 16.

“The Court: You took the ring and watch with you?

“A—No, I didn’t. I put them up in the maid’s room.



"The Court: While you were in the east?"

"A—After I came back."

On page 239. The court was a little confused about this situation, and he asked her:

"The Court: It isn't clear in my mind when you took out the watch and the ring.

"A—Right after I came back from San Diego. [20]

"The Court: And you left them in the dressing room when you were east?"

"A—In the bedroom.

"The Court: You left those in the maid's room, in the bedroom?"

"A—Yes, sir."

Then she goes on and describes how she hid them while she was in the east.

You have got three different stories there, your Honor, told by the same witness during the course of the trial before your Honor.

There is another very interesting bit of information here, your Honor, and I think it may show why she was called under Section 43(b). They talked with this witness a long time, but they still didn't want to be bound by her testimony. I don't know whether they distrusted her or not, but I think if you will take the examination starting on page 29 you will see that this woman has to have words put in her mouth: she cannot repeat the story, your Honor, without being led along.

"Q—After you made the disclosure to Pinky Thompson"—I am reading on page 29.

The Court: I thought you gave her a pretty good going over on cross-examination.

Mr. Penney: I don't think I did. If I did, I didn't accomplish the result I started out to accomplish. [21]

"Q—After you made the disclosure to Pinky Thompson who was the next person to whom you made a statement that this was a fake robbery?

"A—I do not recall anyone else.

"Q—Well, you made a disclosure to Mr. Taylor here, did you not?

"A—Yes, sir.

"Q—Was there anybody else that you ever disclosed these facts to at all?

"A—Not that I recall.

"Q—So that we have it straight now: Pinky Thompson and his assistant, and Mr. Taylor are the only persons that you ever told that this was a fake robbery?

"Mr. Bledsoe: You mean outside of the attorneys in this case?

"Mr. Penney: No, all told.

"Mr. Bledsoe: I object to that as incompetent, irrelevant and immaterial, who she disclosed it to; it is a question simply of whether it was or was not a fake robbery.

"Mr. Penney: All objections are saved except as to the form of the question in our usual stipulation.

"Mr. Bledsoe: Yes.

"Mr. Penney: I will reframe the question.

"Q—You told me that you made disclosure of this fact that this was a fake robbery to Pinky Thompson and to his assistant, and to Mr. Charles B. Taylor. Have you made any [22] disclosure to any other persons other than these three that this was a fake robbery?

"A—I do not recall.

"Mr. Taylor: We might save a little time if I could interrupt with one question. Otherwise I will have to ask it at the end. Otherwise, I think she don't understand the question.

"Mr. Penney: Do you understand me?"

"The Witness: You mean did I discuss it with a lot more people?"

"Q—Yes.

"A—No.

"Q—The answer is no?"

"A—Yes.

"Q—You understood my question, didn't you?"

"A—Yes.

"Mr. Taylor: You did disclose to the attorneys for the insurance company, did you not?"

"The Witness: Yes, I did.

"Mr. Bledsoe: Mr. Davis and myself?"

"The Witness: Yes."

I don't know what could be clearer. I asked her, further than that, at the bottom of page 31:

"Q—Did you ever discuss this matter with Mr. *Leach* since he broke up the jewelry?"

"A—No, sir." [23]

Mr. McAnally and Mr. Davis, so I understood, and the transcript shows, went down there and they spent an afternoon, three hours in San Diego, sometime in the summer of 1942. She denies that she ever discussed it with him after he broke it up.

The Court: I think she admitted later she went down there with them and introduced them, but I think she denied she had discussed the matter with *Leach*; that she introduced them.

Mr. Penney: She went down there ahead of time, your Honor. She admits herself they spent three hours there.

Your Honor, the theory that this case was tried on was a theory of conspiracy. You can't establish conspiracy by the testimony of a conspirator. That testimony was

offered in this case under Section 43(b), and the only purpose that it could serve would be that it would be used against her. It can't be used against Williams. You can't establish a conspiracy by her declarations.

If this was a conspiracy, your Honor, to defraud it started in 1939, either two days or two weeks before the robbery, depending on which version the court wishes to take, and it ended when the money was paid in March of 1940.

The declarations of a co-conspirator during that period of time would be evidence against both conspirators only during the period of time that the conspiracy exists.

You must establish the conspiracy first before those [24] declarations can be used against either of them. There hasn't been one iota of testimony offered in this case of any declarations during that period of time that would be binding on him, or any act that would be binding upon him.

This woman has brought into court two pieces of jewelry that the man who appraised them positively says was not the jewelry that he appraised, positively, under oath.

The Court: Of course, it is a little late discovering that. I am not much impressed by that testimony.

Mr. Penney: I tried my case down in the office a little better.

The Court: You shouldn't feel badly about it. I don't know of any lawyer who doesn't do that.

Mr. Penney: I find I am human in that regard, your Honor. I think of more bright things to say afterwards, too, than I think of during the course of the trial.

I think there are a lot of things that I overlooked, and I overlooked them in this case, and I am here to tell you

that I will take that responsibility, and there are a lot of things that I am not going to go outside the record to tell you why. But, to go on here with this situation, let's just analyze this one point.

The only connection, the only possible connection that could have tied Williams in with this deal was the shaking of hands in a car down in San Diego. No one has ever placed this jewelry in Williams' hands, no one has ever gotten a [25] statement from Williams of any kind or character that would incriminate him in the slightest degree. Not a bit; not a bit, your Honor. And if you take these two pieces of jewelry as corroboration, they are produced by the co-conspirator, so that doesn't add anything to it.

I don't think that I am unusually stupid, your Honor, but I would say that a man who is a radio technician, who breaks up jewelry, and who says that he believes, or he was told—

The Court: A dental technician.

Mr. Penney: A dental technician, if he is breaking up jewelry under these circumstances, your Honor, I would say that he is as much a conspirator as anybody else, and he cannot clothe himself with some dignity by saying, "Well, just old friends, I would do it for her."

Your Honor, there isn't a single solitary thing except that one bit of evidence for her corroboration; not a bit.

Your Honor, the law in California with regard to civil conspiracy is covered in the case of *Del Campo v. Camarillo*. I didn't cite that in my list of authorities, but it gives the information that I think clearly shows that the evidence in this case could not by any stretch of the imagination establish the conspiracy, in the first place, nor could her acts or declarations subsequently, after the conspiracy



is over, according to this theory, ever hold or bind him.  
On page 653— [26]

Mr. Bledsoe: What is the citation?

Mr. Penney: 154 Cal. at 647. I am reading from page 653:

“Many authorities are cited by the respective counsel in regard to the rule concerning the admissibility and effect of such declarations.”

They are talking about declarations of co-conspirators.

“There is no serious disagreement on the subject. The rule is that such declarations of one conspirator, made while the conspiracy is pending and during the progress of the plan adopted for its accomplishment, are admissible against both. But, if made after the act designed is fully accomplished and after the object of the conspiracy has been either attained or finally defeated, the declaration will be admissible only against the person who made it.”

It shows that her declarations here in court, your Honor, are admissible only against her. The conspiracy was completed years ago.

“Nor are such declarations admissible against a co-conspirator to prove the formation of the conspiracy.”

Citing Section 1870, subdivision 6, of the Code of Civil Procedure.

“The plaintiffs contend that in the present case, at the time this declaration was made by Juan E. Camarillo in March, 1905, the object and purpose of the conspiracy had not been accomplished, and hence that the declaration was [27] evidence against Adolfo. Their theory is that the purpose of the conspiracy was to obtain the interest of their mother in the property and to keep possession thereof as long as they lived, and that at any time during



the life of the two conspirators, while they remained in possession and ownership of the property, the declaration of either as to the conspiracy would be admissible against the other. In our opinion this theory is absolutely untenable. The object of the conspiracy, if there was any, was to obtain from the mother her interest in the rancho. That object was fully accomplished when they secured the execution of a deed from her to them conveying to them her interest. The deed, being executed, immediately vested in them whatever interest the mother had. Nothing further remained to be done in furtherance of the conspiracy, or to effect the object for which it was formed."

The Court: Is that 134 or 154?

Mr. Penney: 154. Aside from that, your Honor, I haven't anything further to urge upon the court that isn't contained in the brief, except to say this: This woman, there is no question about that, is vindictive. They have gone through a very bitter contested divorce action. Why she does these things, I don't know. A judgment against her means nothing. The evidence in this case shows that the defendant Sydney Williams has a judgment against her at the present time for things which she took, was ordered [28] to return, and has never returned. So this civil judgment means nothing to her.

I can't understand the insurance company. Your Honor, if they believe this story, I can't understand why they didn't go over to the District Attorney's office. Here is a woman who admits she has stolen \$4,000 from them. Your Honor, this case was filed a month before the statute of limitations expired. The statute of limitations against that crime expired in March. This case is filed in **February**, one month before that. So that there is no chance to go over there at this time and do anything with her.

The judgment against her means nothing. It means everything against him. It means everything against him. And she can accomplish her purpose by a civil judgment as well as she could by a criminal prosecution, and still at the same time run no risk of being charged with any offense.

I feel, your Honor, that there must have been something in the course of this trial that I have overlooked. I can't believe her story.

Mr. Bledsoe: If the court please, referring, first, to the authority Mr. Penney has cited, I believe he cited it during the trial. I can't recall any evidence having been introduced of any declarations of either of the defendants, extrajudicial declarations, which are referred to in that case.

The defendant Williams was called and gave testimony. [29] The case to which Mr. Penney has referred refers to extrajudicial statements or admissions.

As to the time the conspiracy terminated, if it terminated at the time of the false hold-up, that is one thing. However, the conspiracy is continuing, and as far as the defendant Williams is concerned it is continuing to this date, because part of the conspiracy was to hide the fact and to refuse to disclose that there was not a hold-up, and to assert that there was. That is being asserted to this date, and the object of the conspiracy has never terminated, so far as the defendant Williams is concerned.

As to the statute of limitations, or why the District Attorney didn't prosecute somebody, I don't know. The evidence is, and it is shown, this came to the insurance company rather late. It had been hidden from everybody for a long period of time, and after a divorce suit—and it

is true, maybe the co-defendant is bitter, it is obvious—she disclosed the true facts.

Now, the whole weakness in Mr. Penney's argument is this, that he speaks only of what he says are inconsistencies in the co-defendant's testimony. In fact, he refers to the deposition. At the time of the trial he asked her about it, and they went through that at length, most of this transcript is concerned with her testimony, however, he doesn't mention any place, except incidentally, as to Mr. *Leach*. I might say here, *Leach* did testify she did not [30] disclose to him that there was or was not a robbery. She merely asked him if he would talk to a representative or two from the insurance company, and Mr. *Leach* testified until he sat here in court he didn't really know what the story was, although he said, "I had my suspicions."

Now, there is no attempt here on this motion for a new trial to impeach Mr. *Leach*. In fact, the arguments were those that were made by Mr. Penney at the conclusion of the trial almost wholly. There is nobody to impeach the people that were with *Leach*, two other people, Joneses. I believe; there is no attempt to impeach John Marcin.

Counsel says there is no corroboration. *Leach* testified as to breaking it up. The jewelry came from some place. The people there, they couldn't all come into the federal court, people that are disinterested, and commit perjury.

John Marcin testified as to the wristwatch, which was impeachment of Mr. Williams. I mean the ring. It was a two carat ring and not just a little one he sold them for two fifty.

The court could see these items that were put in the inventory there were purchased for very nominal money,

a ring for two fifty, a watch for fifty-five, that was put in with an attachment for three fifty. Of course, Mr. Williams, as pointed out, attempted to explain that by saying he had it appraised at the import value. Mr. Lippett said no it [31] was not appraised at the import value, nobody does that, it was appraised at its actual value.

For instance, we had here a Mrs. Louise Berrenberg. Mrs. Berrenberg was a woman who came into court—the court I am sure knew she was telling the truth—who saw these stones after they were broken up. Mr. Williams said he never saw her before, nor had he ever been to San Diego during that year. He knows that we had Irma Cudd here, a girl who remembers this particular transaction of the large stone. None of the witnesses here are attacked. and they must all be attacked, if the court please, for this judgment to be overturned, or for the defendant Elizabeth Williams' testimony to be false. They must all be attacked. None of them are attacked, because there is nothing upon which they could attack them.

Counsel states he wishes to call two witnesses who were here in court, and our points and authorities show that isn't a proper motion for a new trial, because it is neither newly-discovered evidence nor evidence which with diligence the defendant could not have produced at the time.

I am surprised counsel has been unable to pick up more inconsistencies than he has. I won't go into arguing the inconsistencies of the defendant Williams' testimony. The court was even surprised at some of the testimony. The court remembers that at the time of the trial the court even interrupted to ask him if he actually reached into his hip [32] pocket at the time the robbery was talked about. He said yes.

He even denied she took a purse on a trip like that. It was obvious if she took a purse she would have lost the cigarette case.

Counsel goes on about the boards, and I think the court pointed out his criticism of the boards, and I don't think there is any inconsistency there.

Now, turn to page 218, if we may, line 18. I think that is obviously a typographical error. She testified in the deposition that at the time of the trip she took the one small ring and wristwatch, which obviously she didn't break up, that she had taken it out of there. The answer was: "Not so long. He took the ring and the watch out."

I think that must be a typographical error, I don't know, because it is obvious she testified she took the ring and the watch out of the box in which it had been placed. I can't say, maybe the reporter can tell us, but that is an inconsistency that is obvious on its face.

As I said before, almost every point, including the question of extrajudicial statements, were argued at the time of the trial. Counsel here hasn't shown, in my opinion, any single reason either why the court's original judgment was wrong or how in any manner the witnesses which he now wishes to call, two of which were in court, would change the result. [33]

In order to change the result here counsel would have to show that at least eight witnesses, corroborative witnesses, were testifying falsely and untrue.

As to the question that counsel states he didn't count the diamonds and stones, and so forth, if the court will look on page 266 at line 8, there is one place I noticed some discrepancy. Mr. Lippett was on the witness stand. We have an affidavit on file why he was called as a rebuttal



witness rather than as a direct witness. But when he was on the stand he said without his original appraisal he couldn't say whether those were the actual articles he had appraised or not. However, at page 266 I stated:

"I want to call the court's attention to the description of the item. I don't know if that was the witness' description. In other words, there is some discrepancy here, or will be, in the amount of diamonds."

I think some witness mentioned that fact too. I think even Williams did. I know the court was well aware of that fact. The explanation, of course, was that this was sent in to the insurance company as an appraisal and description, and the complaint took that description as best we could.

I submit, if the court please, that there isn't any showing of surprise or newly-discovered evidence.

The Court: I think I would like to examine the points that are made in counsel's brief and give consideration to your motion for a new trial. [34]

Mr. Penney: Your Honor, I just have one more comment to make. I think Mr. Bledsoe is somewhat confused as to what corroboration is.

The Court: As to what?

Mr. Penney: As to what corroboration would be. I think if the court will recall Mr. Williams was never up there, and certainly they can't corroborate her, your Honor, by something which she does. Mrs. Berrenberg certainly can't corroborate her, your Honor, because that corroboration doesn't tie in Mr. Williams. Mr. Williams



has never been present at any time. I think if the court will go over that evidence there of Mr. *Leach's* he will come to the same conclusion I came to, and that is he is somewhat confused. He says in there that the stuff that was melted down—I think he even had to use a blow torch on one of these and couldn't melt it down. That couldn't be a soft metal, it couldn't be gold. But the fact remains Mr. Williams wasn't up there, and we have to take Mrs. Williams' story in its entirety, and there isn't any single witness that ties Mr. Williams in on this transaction at all except Mrs. Williams.

The Court: Thank you. The matter will be submitted.

[Endorsed] Apr. 4, 1945. [35]

[Endorsed]: No. 11052. United States Circuit Court of Appeals for the Ninth Circuit. Sidney M. Williams, Appellant, vs. Continental Insurance Company of New York, a corporation, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Southern District of California, Central Division.

Filed May 3, 1945.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

In the  
United States Circuit Court of Appeals  
for the Ninth Circuit

No. 11052

SYDNEY M. WILLIAMS,

Appellant,

**vs.**

THE CONTINENTAL INSURANCE COMPANY  
OF NEW YORK, a corporation,

Appellee.

STATEMENT OF POINTS UPON WHICH APPELLANT INTENDS TO RELY IN THE APPEAL OF THIS CASE

**I**

That the findings of fact do not support the conclusions of law or judgment in said case.

**II**

That the judgment is contrary to law.

**III**

That the evidence is insufficient to sustain the findings of fact of the trial court.

**IV**

That the trial court failed to make findings on material issues raised by the pleadings, to wit:

- A. What the actual value was of those certain articles set forth in appellant's proof of loss and specifically mentioned in Paragraph IX of appellee's complaint.
- B. Whether or not appellant falsely or fraudulently represented the value of said articles.
- C. That certain of the articles of jewelry involved in the alleged fraud of which appellee complains

were, at the time of the trial and judgment, in the possession of appellee.

- D. That certain articles introduced in evidence as having been involved in said holdup were not the articles listed in or covered by appellee's policy of insurance nor the articles listed in appellant's proof of loss.

## V

That the judgment is excessive in that it appears from the evidence that appellee had possession of certain articles of jewelry alleged to have been set forth in appellant's proof of loss; whereas said judgment now includes the value of said articles in possession of the appellee without giving credit therefor to this appellant.

## VI

That the trial court erred in denying appellant's motion for a new trial.

## VII

That the court erred in denying appellant's motion to amend findings of fact and conclusions of law and direct the entry of a new judgment.

## VIII

That the court erred in denying appellant's motion to correct the findings and to make the same more definite and certain.

Dated this 17th day of May 1945.

GEORGE PENNEY

Attorney for Appellant

[Affidavit of Service by Mail.]

[Endorsed]: Filed May 18, 1945. Paul P. O'Brien,  
Clerk.

[Title of Circuit Court of Appeals and Cause.]

STIPULATION REGARDING PLAINTIFF'S EXHIBIT NO. 12 IN RECORD ON APPEAL

Whereas, plaintiff's Exhibit No. 12 consists of a voluminous sealed Superior Court file now in the custody and possession of the County Clerk of the Superior Court of the State of California, in and for the County of Los Angeles, being No. D 198085 of the records of said court, and

Whereas, said entire file was received in evidence and considered in its entirety by the trial court in arriving at its decision, and

Whereas, the Clerk of the United States District Court of the Southern District of California did not certify said exhibit as part of the exhibits in said case for the reason that he did not have, or could not obtain, custody or possession of the same,

It Is Hereby Stipulated by and between counsel for the respective parties hereto that plaintiff's Exhibit No. 12, being a sealed divorce file in the case of Williams vs. Williams, No. D 198085 in the records of the Superior Court of the State of California, in and for the County of Los Angeles, need not be transmitted to the Clerk of the above-entitled court as an exhibit herein, until ordered or requested by the Justices thereof, in which event appellant will secure, or attempt to secure, the said file from the Superior Court of the State of California, in and for the County of Los Angeles, for the possession and use of the

Justices of the above-entitled court in the consideration of the appeal herein.

It Is Further Stipulated that the Clerk of the District Court of the United States in and for the Southern District of California execute and file with the Clerk of the above-entitled court his Supplemental Certificate, certifying that said divorce file above referred to was received in evidence by the District Court of the United States during the trial of the above-entitled proceedings therein, and is Exhibit No. 12 in the records of said District Court in said matter.

Dated: May 25, 1945.

GEORGE PENNEY and  
JEAN WUNDERLICH

By: JEAN WUNDERLICH  
Attorneys for Appellant

HINDMAN & DAVIS &  
HUNTINGTON P. BLEDSOE

By: HUNTINGTON P. BLEDSOE  
Attorneys for Appellee

## ORDER

Pursuant to the above stipulation, It Is Hereby Ordered that Exhibit No. 12, introduced during the trial of the above-entitled cause, need not be transmitted to the Clerk of the above-entitled court until further order of this court, and that the clerk of the United States District Court, in and for the Southern District of California, be and he is hereby directed to issue a Supplemental Certificate showing and certifying that said Exhibit No. 12, consisting of the file of the divorce action No. D 198085 in the records of the Superior Court of the State of California, in and for the County of Los Angeles, is and was received in evidence as an exhibit during the trial of the above-entitled cause, if such be the fact.

Dated: May 28, 1945.

FRANCIS H. GARRECHT  
United States Circuit Judge

[Endorsed]: Filed May 29, 1945. Paul P. O'Brien,  
Clerk.